TITLE 7
CRIMINAL PROCEDURE

CHAPTER 1
GENERAL PROVISIONS

7-1-101. Payment of costs accruing from change of venue.

The costs accruing from a change of venue shall be paid by the county in which the indictment was found or the information filed.

7-1-102. Record of information for ascertaining condition of crime in state.

All town, city, county and state law enforcement agencies, district courts, courts of limited jurisdiction, district attorneys, state adult and juvenile correctional institutions and state and local probation and parole agencies shall maintain a public record of crime and criminals and the operation of the criminal justice system. The attorney general shall provide uniform forms for reporting all information necessary to obtain reliable statistics to ascertain the true condition of the crime situation in the state. The officer, agency or court shall furnish the information requested by the attorney general, except that upon implementation of a case management system in a circuit or district court that has the capability of transferring information electronically, the supreme court shall, on behalf of the circuit or district court, furnish the abstract of the court record to the attorney general as required under W.S. 7-19-107(k).

7-1-103. Payment of costs in misdemeanor cases.

In all misdemeanor cases the county shall pay the costs if the defendant is acquitted.

7-1-104. Custody of convict charged with offense committed while in state penal institution.

If any convict in a state penal institution is charged with any crime committed while confined therein, the convict shall remain in the custody of the department of corrections and shall remain confined in the institution unless otherwise directed by the director of the department or by order of the court in which the indictment or information is filed.

7-1-105. Representation of minor pleading guilty.

In no criminal case in the district court shall a plea of guilty be received or accepted from a minor unless the minor is represented by counsel.

7-1-106. Prosecution of crimes.

(a) Crimes shall be prosecuted by indictment, information, complaint or citation as provided by the rules promulgated by the Wyoming supreme court.

(b) All prosecutions shall be carried on in the name and by the authority of the state of Wyoming and shall conclude "against the peace and dignity of the state of Wyoming".

(c) All matters relating to the content and form of indictments, informations and complaints shall be governed by the rules promulgated by the Wyoming supreme court.

7-1-107. Detention of juvenile offenders.

(a) Effective July 1, 1995, no minor charged with a status offense as defined by subsection (b) of this section shall be detained in a jail.

(b) As used in W.S. 7-1-107 and 7-1-108:

(i) "Juvenile detention facility" means any facility which may legally and physically restrict and house a child, other than the Wyoming boys' school, the Wyoming girls' school, the Wyoming state hospital or other private or public psychiatric facility within the state of Wyoming. "Juvenile detention facility" does not include any residential treatment facility which is operated for the primary purpose of providing treatment to a child. A juvenile detention facility may be housed within an adult jail or correction facility if the facility otherwise meets the requirements of state law;

(ii) "Minor" means an individual who is under the age of eighteen (18) years;

(iii) "Status offense" means an offense which, if committed by an adult, would not constitute an act punishable as a criminal offense by the laws of this state or a violation of a municipal ordinance, but does not include a violation of W.S. 12-6-101(b) or (c) or any similar municipal ordinance;

(iv) "Hardware secure juvenile detention facility" means a facility used for the detention of minors that is characterized by locks on the doors and other restrictive hardware designed to restrict the movement of the minors and protect public safety;

(v) "Shelter care" means as defined in W.S. 14-6-201(a)(xxii);

(vi) "Staff secure juvenile detention facility" means a facility used for the detention of minors that is characterized by a trained staff to supervise the movement and activities of detained minors at the facility, without the additional use of hardware secure equipment.

7-1-108. Incarceration of juvenile offenders.

(a) Effective July 1, 1995, no minor convicted of a status offense as defined by W.S. 7-1-107(b) shall be sentenced to a term of imprisonment.

(b) A minor convicted of a misdemeanor or of violating a municipal ordinance, other than a status offense, for which a term of imprisonment is authorized, shall only be imprisoned in a juvenile detention facility.

(c) Except for an alleged delinquent minor who is released to the custody of the minor's parent, guardian or custodian, with verbal counsel, warning or a written promise to appear in court, the person taking the minor into custody shall ensure a juvenile detention risk assessment shall be promptly performed, using a uniform assessment instrument designed by the county sheriffs. If the risk assessment finds that the minor is a serious risk to himself or to the safety of others, the minor may be:

(i) Placed in a hardware or staff secure juvenile detention facility;

(ii) Transferred to a medical facility if the minor is believed to be suffering from a serious physical or mental illness that requires prompt diagnosis or treatment;

(iii) If the minor is not held pursuant to paragraph (i) of this subsection, placed in shelter care or a staff secure juvenile detention facility, or released to a parent, guardian

or other custodian who can provide supervision and care for the minor pending the minor's appearance in court. If no space is available in shelter care or a staff secure juvenile detention facility, the minor may be held in a hardware secure juvenile detention facility.

(d) A minor under the age of eleven (11) years shall not be held in a hardware secure juvenile detention facility. If the minor under the age of eleven (11) years poses a substantial risk of harm to himself or others, a peace officer may detain and transport the minor for an emergency mental health evaluation.

(e) If a minor is taken into custody and is not released to the minor's parent, guardian or custodian, the person taking the minor into custody shall give notice thereof to the minor's parent, guardian or custodian as soon as possible, and in no case later than twenty-four (24) hours after taking the minor into custody.

(f) The county sheriffs shall report on and the department of family services shall collect and analyze data regarding the application of the juvenile detention risk assessment instruments specified under W.S. 5-6-113(c) and subsection (c) of this section and shall report to the joint judiciary interim committee annually beginning January 1, 2011 and every January 1 thereafter.

7-1-109. Examination for sexually transmitted diseases required in certain cases; health officers to notify crime victims; results confidential.

(a) Upon the consent of a person accused of any crime wherein it is alleged that there has been an exchange of bodily fluids, that person shall be examined as soon as practicable, but not later than forty-eight (48) hours after the date on which the information or indictment is presented, for sexually transmitted diseases included within the list of reportable diseases developed by rule and regulation of the department of health pursuant to W.S. 35-4-130(b).

(b) For cases in which a person is accused of any crime wherein it is alleged that there has been an exchange of bodily fluids and the accused person is unwilling or unable to give consent as provided in subsection (a) of this section, or when, for any reason it is impractical to seek consent under subsection (a) of this section, the court may by warrant, upon a

sufficient showing of probable cause by affidavit, at any time of day or night, order the medical examination of the accused person for sexually transmitted diseases included within the list of reportable diseases developed by rule and regulation of the department of health pursuant to W.S. 35-4-130(b). Testing for sexually transmitted diseases done under this subsection shall be conducted as soon as practicable, but no later than forty-eight (48) hours after the date on which the information or indictment is presented.

(c) Any person convicted of a sex offense shall, at the request of the victim, be examined as soon as practicable, but not later than forty-eight (48) hours after the conviction for sexually transmitted diseases included in the list specified in subsection (a) of this section. The victim shall make the request to the district attorney responsible for prosecuting the offense. If the offender is unwilling or unable to consent to the examination the district attorney shall petition the court for an order requiring the offender to submit to the examination.

(d) Any examination performed under this section shall be performed by a licensed physician or other health care provider. The examination shall be in accordance with procedures prescribed by the department of health under W.S. 35-4-130 through 35-4-134 and the examination results shall be reported to the appropriate health officer. Upon receipt of the examination results, the health officer shall notify the victim, the alleged victim or if a minor, the parents or guardian of the victim or the alleged victim. Additional testing under this section shall be performed as medically appropriate and shall be made available in accordance with the provisions of this section.

(e) Costs of any medical examination undertaken pursuant to this section shall be funded through the department of health. If the court finds that the offender is able to reimburse the department, the offender shall reimburse the department for the costs of any medical examination under this section.

(f) All results which are or can be derived from the examination ordered pursuant to this section are confidential, are not admissible as evidence and shall not be disclosed except:

(i) As provided by this section;

(ii) As provided by W.S. 35-4-132(d);

(iii) In a civil action for the negligent or intentional infliction of or exposure to a sexually transmitted disease;

(iv) In a criminal prosecution for the criminal infliction of or exposure to a sexually transmitted disease; or

(v) As otherwise provided by law.

(g) As used in this section:

(i) "Convicted" includes pleas of guilty, nolo contendere and verdicts of guilty upon which a judgment of conviction may be rendered, and includes juvenile adjudications of delinquency if the adjudication is based upon an act which would constitute a sex offense. "Convicted" shall also include dispositions pursuant to W.S. 7-13-301;

(ii) "Sex offense" means sexual assault under W.S. 6-2-302 through 6-2-304, attempted sexual assault, conspiracy to commit sexual assault, incest under W.S. 6-4-402 or sexual abuse of a minor under W.S. 6-2-314 through 6-2-317.

CHAPTER 2
PEACE OFFICERS

7-2-101. Definitions.

(a) As used in W.S. 7-2-101 through 7-2-107:

(i) "Deadly weapon" means as defined by W.S. 6-1-104(a)(iv);

(ii) "Felony" means as defined by W.S. 6-10-101;

(iii) "Misdemeanor" means as defined by W.S. 6-10-101;

(iv) "Peace officer" means:

(A) Any duly authorized sheriff, under sheriff or deputy sheriff who has qualified pursuant to W.S. 9-1-701 through 9-1-707;

(B) Any duly authorized member of a municipal police force, a college or university campus police force or the Wyoming highway patrol who has qualified pursuant to W.S. 9-1-701 through 9-1-707;

(C) Game and fish law enforcement personnel qualified pursuant to W.S. 9-1-701 through 9-1-707 and:

(I) When enforcing felony statutes following observation or discovery of the commission of a felony which was observed or discovered during the performance of their official duties;

(II) While responding to requests to assist other peace officers performing their official duties or when enforcing a valid arrest warrant for any crime;

(III) When performing their official duties or enforcing any provision of title 23 and chapter 13 of title 41, any rule and regulation promulgated by the Wyoming game and fish commission or any other statute for which they are granted statutory enforcement authority; or

(IV) While performing a vehicle identification number (VIN) inspection on any watercraft trailer if performed contemporaneously with a hull identification number (HIN) inspection or motorboat certificate of number inspection on a watercraft being carried on the trailer.

(D) Agents of the division of criminal investigation appointed pursuant to W.S. 9-1-613 who have qualified pursuant to W.S. 9-1-701 through 9-1-707;

(E) Investigators and brand inspectors of the Wyoming livestock board who have qualified pursuant to W.S. 9-1-701 through 9-1-707:

(I) When enforcing W.S. 6-3-201, 6-3-203, 6-3-401, 6-3-402, 6-3-410, 6-3-601 through 6-3-603, 6-3-607, 6-3-610 through 6-3-612, 6-9-202, 35-10-101, 35-10-102 and 35-10-104, the provisions of title 11 and any laws prohibiting theft, killing or mutilation of livestock or any part thereof and any rule or regulation promulgated by the Wyoming livestock board or any other law for which they are granted statutory enforcement authority;

(II) When responding to a request to assist another peace officer as defined in this paragraph performing his official duty; or

(III) Enforcing a valid arrest warrant for a crime specified in subdivision (E)(I) of this paragraph.

(F) Any duly authorized arson investigator employed by the state fire marshal who has qualified pursuant to W.S. 9-1-701 through 9-1-707;

(G) Any superintendent, assistant superintendent or full-time park ranger of any state park, state recreation area, state archeological site or state historic site who has qualified pursuant to W.S. 9-1-701 through 9-1-707, when acting within the boundaries of the state park, state recreation area, state archeological site or state historic site, or when responding to a request to assist other peace officers performing their official duties;

(H) Any duly authorized detention officer in the performance of his duties and who has qualified pursuant to W.S. 9-1-701 through 9-1-707;

(J) Investigators employed by the Wyoming state board of outfitters and professional guides and qualified pursuant to W.S. 9-1-701 through 9-1-707, when enforcing W.S. 23-2-401 and 23-2-406 through 23-2-418 and board rules and regulations promulgated under W.S. 23-2-410(a)(ii);

(K) Any peace officer certified by another state who has been appointed as a special deputy sheriff of a Wyoming county pursuant to W.S. 18-3-602(c);

(M) Certified law enforcement officers of an adjoining state while responding to a request for assistance from a peace officer in this state pursuant to the "Law Enforcement Interstate Mutual Aid Act" or other lawful request;

(N) The director and full-time staff instructors of the Wyoming law enforcement academy when duly appointed and acting pursuant to W.S. 9-1-633(b);

(O) Any duly authorized court security officer employed by the Wyoming supreme court who is qualified pursuant to W.S. 9-1-701 through 9-1-707 when:

(I) Enforcing Wyoming statutes or supreme court rules on premises where the supreme court is conducting business;

(II) In fresh pursuit of a person whom the officer has probable cause to believe has committed within the officer's jurisdiction a violation of a state statute, or for whom an arrest warrant is outstanding for any criminal offense; or

(III) When responding to a request to assist other peace officers acting within the scope of their official duties in their own jurisdiction.

(P) Any person qualified pursuant to W.S. 9-1-701 through 9-1-707 and employed by the Wyoming gaming commission when engaged in the performance of that person's duties or when responding to a request to assist other peace officers acting within the scope of their official duties in their own jurisdiction.

7-2-102. Preconditions for arrests.

(a) A peace officer may arrest a person when the officer has a warrant commanding that the person be arrested or the officer has reasonable grounds for believing that a warrant for the person's arrest has been issued in this state or in another jurisdiction.

(b) A peace officer may arrest a person without a warrant when:

(i) Any criminal offense is being committed in the officer's presence by the person to be arrested;

(ii) The officer has probable cause to believe that a felony has been committed and that the person to be arrested has committed it; or

(iii) The officer has probable cause to believe that a misdemeanor has been committed, that the person to be arrested has committed it and that the person, unless immediately arrested:

(A) Will not be apprehended;

(B) May cause injury to himself or others or damage to property; or

(C) May destroy or conceal evidence of the commission of the misdemeanor.

7-2-103. Issuance of citations.

(a) A citation may issue as a charging document for any misdemeanor which the issuing officer has probable cause to believe was committed by the person to whom the citation was issued.

(b) A person may be released if, after investigation, it appears that the person:

(i) Does not present a danger to himself or others;

(ii) Will not injure or destroy the property of others;

(iii) Will appear for future court proceedings; and

(iv) Is willing to accept the citation, thereby promising to appear in court at the time and on the date specified in the citation.

(c) The person may be released from custody upon the directive of:

(i) The arresting officer;

(ii) The district attorney or, for cases being prosecuted in municipal court, the city attorney;

(iii) Another peace officer designated by the sheriff or, for cases being prosecuted in municipal court, the chief of police.

(d) The citation for a person in custody may be issued by the arresting officer or by another peace officer designated by:

(i) The district attorney or the city attorney for cases being prosecuted in municipal court; or

(ii) The sheriff or the chief of police for cases being prosecuted in municipal court.

(e) For purposes of this section, "issuing officer" means a peace officer, or a special municipal officer acting in accordance with the terms of his appointment under W.S. 15-1-103(a)(l). A "special municipal officer" means a municipal employee whose duties include the areas of animal control, parking or municipal code enforcement.

7-2-104. Authority to seize deadly weapons; disposition.

(a) A peace officer may take into possession any deadly weapons found in the possession of a person arrested if:

(i) The peace officer has reason to believe the weapon will be used to endanger the safety of the officer or the public; or

(ii) The person arrested might seek to use the weapon to resist arrest or to escape.

(b) Except as otherwise provided in this subsection, nothing in this section shall authorize a peace officer to take into possession any deadly weapon when enforcing the game and fish provisions contained in title 23 of the Wyoming statutes provided the safety of the officer or the public is not endangered. A peace officer may take into possession a deadly weapon as authorized by W.S. 23-6-208.

(c) Deadly weapons seized under this section shall be returned or disposed of as provided by W.S. 7-2-105 unless otherwise ordered by the court.

7-2-105. Disposition and appraisal of property seized or held; notice and order to show cause; judgment.

(a) When personal property not subject to be summarily destroyed is seized or held by any peace officer pursuant to any law of this state, or when property seized by any peace officer is delivered to the appropriate law enforcement agency under provisions other than W.S. 35-7-1049, or property is taken into custody as lost, mislaid or abandoned, the head of the law enforcement agency shall forthwith ascertain as closely as practicable:

(i) The approximate value of the property;

(ii) The facts giving rise to the seizure or custody;

(iii) The name and position of the person making the seizure or taking the property into custody;

(iv) The name and address of the owners of the property or those persons who were in possession of the property at the time of the seizure;

(v) The names and addresses of all persons known to have an interest in the property seized.

(b) Any property seized by a peace officer shall be delivered immediately to the appropriate law enforcement agency. The head of the law enforcement agency shall maintain custody of the property pending an order of disposal by the court pursuant to this section unless the property is otherwise released according to this section.

(c) If the property is lost, mislaid, abandoned or unclaimed or if possession of the property is unlawful, the law enforcement agency shall seek in circuit court or district court an order to show cause why the property should not be sold or forfeited and sold at public auction or transferred to the use of the law enforcement agency. If the lawful owner of the property can reasonably be ascertained, the property shall be delivered to him without judicial action unless the property constitutes evidence of a crime, the possession of the property would be unlawful or ownership and interest are in dispute.

(d) Notice and proceedings on the order to show cause shall be according to the Wyoming Rules of Civil Procedure, provided notice by publication shall be once each week for two (2) consecutive weeks. The trial of the issues shall be by the court.

(e) On final hearing the order to show cause shall be taken as prima facie evidence that the property is abandoned or unclaimed and is sufficient for a judgment of forfeiture in the absence of other proof.

(f) In disputed ownership cases the burden shall be upon the claimants to show that they are the lawful owners or have a legally recognizable interest in the property.

(g) When the property is encumbered, the court shall, after deducting costs, direct the payment of the encumbrance from the proceeds of any sale of the property or distribute the

property equitably between those persons having a legal interest.

(h) The proceedings and judgment of forfeiture shall be in rem and shall be primarily against the property itself.

(j) Upon the entry of a judgment of forfeiture the court shall determine the disposition to be made of the property, which may include the destruction or sale of the property or the allocation of the property to some other governmental function or use or otherwise, as the court may determine.

(k) Sale of the property shall be at public auction to the highest bidder for cash after two (2) weeks public notice as the court may direct.

(m) Upon the application of any claimant, the court may fix the value of a forfeitable interest in the seized property and permit the claimant to redeem the property upon the payment of a sum equal to the value, which sum shall be disposed of as would the proceeds of the sale of the property under a judgment of forfeiture.

(n) The balance of the proceeds, if any, shall be deposited in the general operating account of the state, county or municipal entity that has fiscal authority over the law enforcement agency confiscating the property.

(o) This section does not apply to property which is subject to the Uniform Unclaimed Property Act, W.S. 34-24-101 through 34-24-140.

(p) For purposes of this section, seized property that is not subject to W.S. 35-7-1049 may be summarily destroyed, provided the lawful owner has been contacted and has declined to take possession of the property, including:

(i) Evidence that is no longer needed for the prosecution of a case, or needed for purposes of appellate review of the case;

(ii) Evidence in misdemeanor cases in which the district attorney has determined that no suspect has been identified or prosecution has not been pursued for at least one (1) year;

(iii) Evidence in felony cases in which the district attorney has determined that no suspect has been identified or prosecution has not been pursued for at least five (5) years;

(iv) Soiled, defective, broken or demolished personal property, or waste.

(q) Items of found property with a value of not more than fifty dollars ($50.00) for which the owner cannot be located, or if the owner has not responded after contact was attempted by the law enforcement agency, may be disposed of after the latter of:

(i) Thirty (30) days after the agency has determined that the owner cannot be located; or

(ii) Thirty (30) days after the agency has attempted on at least three (3) nonconsecutive days to contact the owner without response from the owner.

(r) Law enforcement agencies shall preserve biological material that was seized or recovered as evidence in the investigation or prosecution that resulted in a conviction or adjudication as a delinquent for a crime of violence and not consumed in previous DNA testing. The biological material shall be preserved for five (5) years or, except as provided in this section, for as long as any person incarcerated in connection with the case or investigation remains in custody, whichever is longer. Notwithstanding any provisions to the contrary in this section, effective July 1, 2008 a law enforcement agency may dispose of the biological material after five (5) years if the law enforcement agency notifies any person who remains incarcerated in connection with the investigation or prosecution and any counsel of record for such person, or if there is no counsel of record, the state public defender, of the intention to dispose of the evidence and the law enforcement agency affords the person not less than one hundred eighty (180) days after the notification to file a motion for DNA testing or preservation of the biological material. The law enforcement agency shall not be required to preserve evidence that is required to be, and has been, returned to its rightful owner, or is of such a size, bulk or physical character as to render retention impracticable. If practicable, the law enforcement agency shall remove and preserve representative portions of the biological material sufficient to permit future DNA testing before returning or disposing of the material.

(s) Whoever willfully or maliciously destroys, alters, conceals or tampers with evidence that is required to be preserved under subsection (r) of this section with the intent to impair the integrity of that evidence, to prevent that evidence from being subjected to DNA testing or to prevent the production or use of that evidence in an official proceeding shall upon conviction be subject to a fine of not more than ten thousand dollars ($10,000.00), imprisonment for not more than five (5) years, or both.

7-2-106. Extraterritorial authority of peace officers; requests for assignment of peace officers; liability; compensation.

(a) Subject to the limitations in subsection (e) of this section, a peace officer, while outside of his jurisdiction, shall have the same authority that applies to him within his jurisdiction to the same degree and extent only when any one (1) of the following conditions exists:

(i) The peace officer is responding to a request for law enforcement assistance made by a law enforcement agency of another jurisdiction or a specific request to assist another peace officer acting within the scope of his official duties in another jurisdiction;

(ii) The peace officer possesses reasonable cause to believe that a crime is occurring involving an immediate threat of serious bodily injury or death to any person; or

(iii) The peace officer is in fresh pursuit of a person whom the officer has probable cause to believe has committed within the officer's jurisdiction a violation of a municipal ordinance or state statute, including traffic infractions, or for whom an arrest warrant is outstanding for any criminal or traffic offense.

(b) Subject to the limitations in subsection (e) of this section, the governing body of any municipality that does not have a police department, the chief of police of any municipality or his designee, or the sheriff of any county or his designee, in accordance with the rules and procedures established by the governing body of any municipality or county, may request the chief of police of any other municipality, or his designee, or the sheriff of any other county, or his designee, to assign certified peace officers under their respective command to perform law enforcement duties within the

jurisdiction of the requesting chief of police or sheriff. Peace officers, while so assigned and performing duties, are subject to the direction and control of the requesting chief or sheriff and shall have full peace officer authority within the requesting agency's jurisdiction during the assignment. The assignments under this subsection shall be restricted to the terms of a written memorandum of understanding entered into in advance by each participating sheriff, chief of police or appropriate supervisor of another agency employing peace officers and by the governing bodies of their respective counties or municipalities. The memorandum of understanding shall, at minimum, specify:

(i) The length of term of the assignment, not to exceed one (1) month beyond the current term of office of any participating sheriff or chief of police;

(ii) The certified peace officers covered by the assignment;

(iii) A general description of the geographical boundaries of territory covered by the assignment;

(iv) The responsibilities of each participating county, municipality and law enforcement agency for costs and expenses related to the assignments, including the cost of all wages, salaries, benefits and damage to equipment belonging to an officer or his employer while acting under the provisions of this subsection.

(c) A peace officer acting pursuant to subsection (a), (b) or (f) of this section outside his own jurisdiction, or a peace officer when providing law enforcement assistance on the Wind River Indian Reservation pursuant to a memorandum of understanding entered in advance and approved by the attorney general, between the department of the interior, Federal Bureau of Indian Affairs or the tribes and the state, county, city or town providing the assistance, shall be deemed to be acting within the scope of his duties for purposes of the Wyoming Governmental Claims Act and the state self-insurance program, W.S. 1-41-101 through 1-41-111, or the local government self-insurance program, W.S. 1-42-201 through 1-42-206. The memorandum of understanding shall contain a provision for immunity from suit in tribal court for activities occurring pursuant to any law enforcement assistance provided under this subsection. Any suit relating to those activities shall be brought only under the terms of the Wyoming Governmental Claims

Act in the state district court having jurisdiction, or in the federal district court for the district of Wyoming, if appropriate. All privileges and immunities from liability, and all pension, disability, worker's compensation and other benefits which normally apply to peace officers while they perform their duties in their own jurisdiction shall also apply to them when acting as provided in subsection (a), (b) or (f) of this section and shall apply to peace officers when providing law enforcement assistance on the Wind River Indian Reservation pursuant to this subsection. For purposes of W.S. 27-14-104 and subsection (a), (b) or (f) of this section, the requesting and assigning law enforcement agencies shall be a joint employer as defined under W.S. 27-14-102(a)(xix) and the designated peace officer shall be a joint employee as defined under W.S. 27-14-102(a)(xxi).

(d) The cost of salary and benefits accruing to a peace officer acting pursuant to subsection (a) of this section shall be borne by the individual peace officer's own employing agency. The cost of any damage to equipment belonging to the officer or his employer occurring while acting pursuant to subsection (a) of this section shall be borne by the requesting law enforcement agency.

(e) Nothing in this section shall be construed to authorize a peace officer:

(i) As defined in W.S. 7-2-101(a)(iv)(F), (H) or (J) to act pursuant to subsection (a) or (b) of this section; or

(ii) As defined in W.S. 7-2-101(a)(iv)(E) or (G) to act pursuant to paragraph (a)(ii) or (iii) or subsection (b) of this section; or

(iii) As defined in W.S. 7-2-101(a)(iv)(E), (F) or (J) to act pursuant to subsection (f) of this section.

(f) Subject to the limitations in paragraph (e)(iii) of this section, the department of state parks and cultural resources may request any other agency or governing body employing peace officers to assign peace officers qualified pursuant to W.S. 9-1-701 through 9-1-707 under their respective command to perform law enforcement duties within the jurisdiction of the department of state parks and cultural resources. Peace officers, while so assigned and performing duties, are subject to the direction and control of the department of state parks and cultural resources and shall have

full peace officer authority within the department's jurisdiction during the assignment. The assignments under this subsection shall be restricted to the terms of a written memorandum of understanding entered into in advance by the department and each participating agency employing peace officers. The memorandum of understanding shall, at minimum, specify:

(i) The length of term of the assignment;

(ii) The peace officers covered by the assignment;

(iii) A general description of the geographical boundaries of territory covered by the assignment;

(iv) The responsibilities of the department and each participating law enforcement agency for costs and expenses related to the assignments, including the cost of all wages, salaries, benefits and damage to equipment belonging to an officer or his employer while acting under the provisions of this subsection.

7-2-107. Arrest or detention of persons with diplomatic immunities.

(a) This section applies to an individual who upon being stopped, detained or arrested by a peace officer for a violation of W.S. 6-2-106, a driving while under the influence offense or a moving violation pursuant to the motor vehicle laws of Wyoming or local ordinance, provides a driver's license issued by the United States department of state or otherwise claims immunities or privileges pursuant to title 22, chapter 6 of the United States Code.

(b) If a driver as described in subsection (a) of this section is stopped, detained or arrested by a peace officer who has probable cause to believe that the driver has committed a violation described in subsection (a) of this section, the peace officer shall:

(i) Within a reasonable amount of time, contact the United States department of state and verify the driver's status and possible immunity;

(ii) Record relevant information from the driver's license or identification card issued by the United States department of state; and

(iii) Within five (5) days after the date of the stop, forward the following to the United States department of state:

(A) A written report of the incident; and

(B) A copy of the citation or other charging document if issued.

(c) The provisions of this section do not prohibit the application of any law to a criminal violation by any individual who claims immunities pursuant to title 22, chapter 6 of the United States Code.

7-2-108. Repealed By Laws 2007, Ch. 91, § 3.

CHAPTER 3
FUGITIVES AND PREVENTION OF CRIME

ARTICLE 1
INTERSTATE COMPACTS

7-3-101. Legislative findings.

(a) The legislature finds and declares:

(i) The congress of the United States, pursuant to the provisions of section 10 of article I of the constitution of the United States, has granted its consent, by that certain act of June 6, 1934 (Public Law No. 293, H.R. 7353), as amended, that any two (2) or more states may enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and for the establishment of any agencies, joint or otherwise, as they may deem desirable, for making effective the agreements or compacts;

(ii) There is a practical need and utility for these agreements or compacts, between or among the state of Wyoming and any other states of the United States, and particularly between or among the state of Wyoming and those states adjoining the state of Wyoming.

7-3-102. Appointment of attorney general to represent state on joint commissions.

The governor shall appoint the attorney general as the commissioner who shall represent Wyoming upon any joint commission created by Wyoming and any one (1) or more states for the purpose of negotiating and entering into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of the respective criminal laws and policies of Wyoming and any other state and for the establishment of agencies deemed desirable for making effective any agreement or compact.

7-3-103. Purpose and objects; required ratification.

(a) Any agreement or compact entered into under W.S. 7-3-101 through 7-3-107 shall be designed to suppress crime, to circumvent the activities of criminals and to expedite their apprehension and trial, and to enforce generally the respective criminal laws and policies of Wyoming and any other state entering into the agreement or compact. In order to effectuate those purposes, an agreement or compact may contain specific provisions for the accomplishment of any of the following objects:

(i) The arrest of any person who has fled from any one (1) of the compacting states into another, by any pursuing officer of the compacting state from which the person fled;

(ii) The return of any witness deemed essential in the prosecution of any criminal case who has gone or fled into any other compacting state from the compacting state in which his presence is required;

(iii) The establishment and maintenance by any two (2) or more compacting states of facilities for the investigation of crime and the discovery of criminals, including crime detection agencies, bureaus of registration and identification, crime laboratories and similar agencies;

(iv) The proper supervision of any person who, having been paroled or granted probation in one (1) of the compacting states, has become a resident of any other compacting state;

(v) The written agreement of one (1) or more law enforcement agencies of this state to enter into mutual aid agreements with one (1) or more law enforcement agencies of this state or an adjoining state or the United States as authorized by W.S. 7-3-903(a).

(b) Any agreement or compact entered into pursuant to this section shall conform with the purposes for which the consent of the congress has been granted. Any agreement or compact entered into on behalf of Wyoming and any one (1) or more states shall not be binding upon any of the states, or upon their respective citizens, until the agreement or compact has been ratified and approved by the respective legislatures of the several states entering into the agreement or compact.

7-3-104. Legal, clerical and stenographic assistance.

When the commissioner of Wyoming is called to enter upon the performance of his duties, as provided under W.S. 7-3-101 through 7-3-107, he shall be furnished legal, clerical and stenographic assistance as the governor and he deem advisable and necessary.

7-3-105. Commencement of commissioner's duties.

The commissioner for Wyoming shall not commence the performance of his duties, or be authorized to incur any expenses for traveling, or for legal, clerical or stenographic assistance, until the governor of Wyoming is notified by the governor of another state that he has appointed a commissioner to serve upon a joint commission for the purpose of negotiating and entering into any agreement or compact authorized to be made on behalf of Wyoming under W.S. 7-3-101 through 7-3-107.

7-3-106. Investigations.

The commissioner for Wyoming has full authority to make any investigations of conditions in Wyoming or in any other state which may be necessary in negotiating any agreement or compact authorized by W.S. 7-3-101 through 7-3-107.

7-3-107. Compensation of commissioner.

The commissioner for Wyoming shall receive no compensation for his services as such, but he and his assistants shall be entitled to receive their traveling and other necessary expenses incurred in the performance of their duties.

ARTICLE 2
EXTRADITION

7-3-201. Definitions.

(a) As used in this act:

(i) "Executive authority" includes the governor, and any person performing the functions of governor in a state other than this state;

(ii) "Governor" includes any person performing the functions of governor by authority of the law of this state;

(iii) "State", referring to a state other than this state, includes any other organized or unorganized state or territory of the United States of America;

(iv) "This act" means W.S. 7-3-201 through 7-3-227.

7-3-202. Duty of governor to have fugitives arrested and delivered up to proper authorities.

Subject to the qualifications of this act, and the applicable provisions of the United States constitution and acts of congress, the governor of this state shall have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

7-3-203. General requirements as to demand by another state.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon. The indictment, information, or affidavit made before the magistrate shall substantially charge the person demanded with having committed a crime under the law of that state and the copy shall be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

7-3-204. Investigation of demand.

When a demand shall be made upon the governor of this state by the executive authority of another state for a surrender of a person charged with crime, the governor may call upon the

attorney general or any district attorney in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he should be surrendered.

7-3-205. Contents of demand.

(a) A warrant of extradition shall not be issued unless the documents presented by the executive authority making the demand show that the accused:

(i) Except in cases arising under W.S. 7-3-206, was present in the demanding state at the time of the commission of the alleged crime, and thereafter fled from the state;

(ii) Is now in this state; and

(iii) Is lawfully charged by indictment found or by information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state, or that he has been convicted of a crime in that state and has escaped from confinement or broken his parole.

7-3-206. Surrender of accused when not present in demanding state at time of crime.

The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in that other state in the manner provided in W.S. 7-3-205, with committing an act in this state, or in a third state, intentionally resulting in a crime in that state whose executive authority is making the demand. The provisions of this act not otherwise inconsistent shall apply to this situation notwithstanding the accused was not in that state at the time of the commission of the crime and has not fled therefrom.

7-3-207. Issuance of governor's warrant for arrest; contents.

If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, sealed with the state seal, and directed to a sheriff, marshal, coroner or other person entrusted to execute it. The warrant shall substantially recite the facts necessary to the validity of its issuance.

7-3-208. Effect of warrant.

(a) The warrant shall:

(i) Authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the state and to deliver him to the duly authorized agent of the demanding state; and

(ii) Command the aid of all sheriffs and other peace officers in the execution of the warrant.

7-3-209. Authority of person making arrest to command assistance.

Every officer or other person authorized by the governor to make the arrest has the same authority in arresting the accused to command assistance as sheriffs and other officers have in the execution of any criminal process directed to them, with the like penalties against those who refuse their assistance.

7-3-210. Right of accused to counsel; opportunity to apply for writ of habeas corpus; notice of writ and hearing.

No person arrested pursuant to W.S. 7-3-208 shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he has been informed of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand legal counsel. If the prisoner, his friends, or counsel shall state that he or they desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this state, who shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When the writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the appointed agent of the demanding state.

7-3-211. Penalty for surrendering accused without hearing.

Any officer who delivers to the agent for extradition of the demanding state a person in his custody under the governor's warrant in violation of W.S. 7-3-210 is guilty of a misdemeanor, and on conviction shall be fined not more than one thousand dollars ($1,000.00), or be imprisoned not more than six (6) months, or both.

7-3-212. Confinement in jail for safekeeping; expenses.

The officer or person executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city en route to his destination. The keeper of the jail shall receive and safely keep the prisoner until the person having charge of him is ready to proceed on his route. The person having charge of the prisoner is chargeable with the expense of keeping him in jail.

7-3-213. Issuance of warrant for arrest by judge or magistrate.

(a) The judge or magistrate shall issue a warrant for arrest when:

(i) Any person within this state is charged on the oath of any credible person before the judge or other magistrate of this state with the commission of a crime in any other state, and except in cases arising under W.S. 7-3-206, with having fled from justice; or

(ii) A complaint has been made before any judge or other magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in that other state and that the accused has been charged in that state with the commission of the crime, and, except in cases arising under W.S. 7-3-206, has fled therefrom and is believed to have been found in this state.

(b) The warrant to the sheriff of the county in which the oath or complaint is filed shall direct him to apprehend the person charged, wherever he may be found in this state, and bring him before the judge or magistrate or any other judge, court, or magistrate who may be convenient to the place where the arrest may be made, to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

7-3-214. Authority to arrest person without warrant.

The arrest of a person may be lawfully made by an officer or a private citizen without a warrant upon reasonable information that the accused is charged in the courts of another state with

a crime punishable by death or imprisonment for a term exceeding one (1) year. When arrested under this section the accused shall be taken before a judge or magistrate as soon as possible and complaint shall be made against him under oath setting forth the ground for the arrest as in W.S. 7-3-213. Thereafter his answer shall be heard as if he had been arrested on a warrant.

7-3-215. Examination of person arrested without warrant; commitment pending demand.

If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and that he probably committed the crime, and, except in cases arising under W.S. 7-3-206, that he has fled from justice, the judge or magistrate shall commit him to jail by a warrant reciting the accusation and specifying the time as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in W.S. 7-3-216, or until he shall be legally discharged.

7-3-216. Right of person arrested without warrant to bail.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate shall admit the arrested person to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper. The bail or bond shall be conditioned for the appearance of the arrested person before the judge or magistrate at a time specified in the bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

7-3-217. Failure of state to demand person arrested without warrant within time specified.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, the judge or magistrate may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in W.S. 7-3-216. At the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge or magistrate may either discharge him,

or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

7-3-218. Failure of prisoner admitted to bail to appear.

If the prisoner is admitted to bail, and fails to appear and surrender himself according to the condition of his bond, the court shall order the bond forfeited. Recovery may be had on the bond in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

7-3-219. Procedure where criminal prosecution pending against accused in state.

If a criminal prosecution has been instituted against the person under the laws of this state and is still pending, the governor at his discretion either may surrender him on the demand of the executive authority of another state, or may hold him until he has been tried and discharged, or convicted and punished in this state.

7-3-220. Inquiry into guilt or innocence of accused.

The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition as provided by W.S. 7-3-203 shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

7-3-221. Recall of, or issuance of new, warrant.

The governor may recall his warrant of arrest, or may issue another warrant whenever he deems proper.

7-3-222. Demand that accused be returned to this state; issuance of warrant.

(a) Upon receipt of an application as provided by W.S. 7-3-223, the governor of this state may demand a person charged with crime in this state, or with violation of parole, from the chief executive of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States.

(b) The governor shall issue a warrant under the seal of this state, to some agent, commending him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

7-3-223. Application for return of accused to this state.

(a) When the return to this state of a person charged with crime in this state is required, the district attorney for the county in which the offense is committed shall present to the governor a written application for a requisition for the return of the person charged. The application shall state:

(i) The name of the person charged;

(ii) The crime charged against him;

(iii) The approximate time, place and circumstances of the commission of the crime; and

(iv) The state and address or location where the accused is believed to be at the time the application is made.

(b) As part of the application under subsection (a) of this section the district attorney shall certify that in his opinion justice requires the arrest and return of the accused to this state for trial, and that the proceeding is not instituted to enforce a private claim.

(c) The application under subsection (a) of this section shall be verified by affidavit and shall be executed in duplicate. It shall be accompanied by two (2) certified copies of the indictment returned, or information filed, or of the complaint and affidavit made to the magistrate, stating the offense with which the accused is charged. The district attorney may also attach further affidavits and other documents in duplicate as he deems proper to be submitted with the application. One (1) copy of the application with the action of the governor indicated by his endorsement, and one (1) of the certified copies of the indictment, information or complaint and affidavit, shall be filed in the office of the secretary of state to remain of record in that office. The other copy of all papers shall be forwarded with the governor's requisition.

(d) When the return to this state of a person charged with violating the conditions of his parole is required, the chairman

of the board of parole shall present to the governor a written application for a requisition for the return of the person charged with parole violation. The application shall state:

(i) The name of the parolee;

(ii) The parole violation charged against him;

(iii) The approximate time, place and circumstances of the commission of the violation; and

(iv) The state and address where the parolee is believed to be at the time the application is made.

(e) As part of the application under subsection (d) of this section the chairman of the board of parole shall certify that in his opinion justice requires the arrest and return of the parolee to this state for hearing before the board of parole and that the proceeding is not instituted to enforce a private claim.

(f) The application under subsection (d) of this section shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two (2) certified copies of the judgment and sentence, parole grant, parole agreement, recommendation for revocation of parole and order of arrest issued by the board of parole. The chairman of the board of parole may also attach further affidavits and other documents in duplicate as he deems proper to be submitted with the application. One (1) copy of the application with the action of the governor indicated by his endorsement, and one (1) of the certified copies required by this subsection, shall be filed in the office of the secretary of state to remain of record in that office. The other copy of all papers shall be forwarded with the governor's requisition.

7-3-224. Payment of expenses for return of accused to this state.

(a) The state shall pay the expenses involved in the return to this state of a person charged with violating the terms of his parole or who has escaped from a state penal institution or who has escaped from a corrections program provided for inmates of a state penal institution other than a defendant serving a split sentence of incarceration under W.S. 7-13-107 or a probationer participating in a residential or nonresidential community correctional program pursuant to W.S.

7-18-108. In all other cases the expenses of extradition shall be paid by the county applying for the return of the person.

(b) Expenses authorized under this section include the fees paid to the officers of the state on whose governor the requisition is made, and mileage for all necessary travel in returning the person not exceeding the rate set in W.S. 9-3-103.

7-3-225. Service of civil process on person brought into state.

A person brought into this state on extradition based on a criminal charge is not subject to service of personal process in any civil action arising out of the same facts as the criminal proceedings to answer which he is returned, until he has been convicted in the criminal proceedings, or if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

7-3-226. Charging of person brought into state with other crimes.

After a person has been brought back to this state upon extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here, as well as that specified in the requisition for his extradition.

7-3-227. Construction of provisions.

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

ARTICLE 3
INTERSTATE COMPACT FOR ARREST OF
FUGITIVES AND ATTENDANCE OF WITNESSES

7-3-301. Repealed By Laws 2007, Ch. 89, § 1.

7-3-302. Repealed By Laws 2007, Ch. 89, § 1.

7-3-303. Repealed By Laws 2007, Ch. 89, § 1.

ARTICLE 4
WESTERN INTERSTATE CORRECTIONS COMPACT

7-3-401. Western Interstate Corrections Compact.

The Western Interstate Corrections Compact as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:

WESTERN INTERSTATE CORRECTIONS COMPACT

ARTICLE I

Purpose and Policy

The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interest of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders.

ARTICLE II

Definitions

(a) As used in this compact, unless the context clearly requires otherwise:

(i) "State" means a state of the United States or, subject to the limitation contained in article VII, Guam;

(ii) "Sending state" means a state party to this compact in which conviction was had;

(iii) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction was had;

(iv) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution;

(v) "Institution" means any prison, reformatory or other correctional facility (including but not limited to a

facility for the mentally ill or mentally defective) in which inmates may lawfully be confined;

(vi) "This compact" means W.S. 7-3-401.

ARTICLE III

Contracts

(a) Each party state may make one (1) or more contracts with any one (1) or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

(i) Its duration;

(ii) Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance;

(iii) Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof, and the crediting of proceeds from or disposal of any products resulting therefrom;

(iv) Delivery and retaking of inmates;

(v) Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percentum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that monies are legally available therefor, pay to the receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and

reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(c) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV

Procedures and Rights

(a) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary in order to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record

of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have the benefit of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this subdivision shall be borne by the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on

account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(j) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V

Acts Not Reviewable in Receiving State; Extradition

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is suspected of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI

Federal Aid

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of

which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII

Entry into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two (2) contiguous states from among the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. For the purposes of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the states of California, Oregon and Washington; and to Guam. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states, or any other state contiguous to at least one (1) party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of congress to such joinder. For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon and Washington.

ARTICLE VIII

Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two (2) years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX

Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE X

Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

7-3-402. Authority to commit or transfer inmates.

Any court or other agency or officer of this state having power to commit or transfer an inmate (as defined in article II (a)(iv) of the Western Interstate Corrections Compact) to any institution for confinement may commit or transfer such inmate to any institution within or without this state if this state has entered into a contract or contracts for the confinement of inmates in said institution pursuant to article III of the Western Interstate Corrections Compact.

7-3-403. Enforcement of compact.

The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions

including but not limited to the making and submission of such reports as are required by the compact.

7-3-404. Hearings.

The governor is hereby authorized and directed to hold such hearings as may be requested by any other party state pursuant to article IV (f) of the Western Interstate Corrections Compact.

7-3-405. Authority to enter into contracts; force and effect.

The governor is hereby empowered to enter into such contracts on behalf of this state as may be appropriate to implement the participation of this state in the Western Interstate Corrections Compact pursuant to article III thereof. No such contract shall be of any force or effect until approved by the attorney general of the state.

7-3-406. Construction and severability of provisions.

The provisions of this act, W.S. 7-3-401 through 7-3-406, shall be severable and if any phrase, clause, sentence, or provision of this act is declared to be unconstitutional or the applicability thereof to any state, agency, person or circumstance is held invalid, the constitutionality of this act and the applicability thereof to any other state, agency, person or circumstance shall, with respect to all severable matters, not be affected thereby. It is the legislative intent that the provisions of this act be reasonably and liberally construed.

ARTICLE 5
PREVENTION OF CRIME

7-3-501. Filing of complaint; issuance of warrant or summons.

(a) As used in W.S. 7-3-501 through 7-3-505 "judge" means a circuit court judge.

(b) When complaint is made by the district attorney or by any private person to any circuit court judge that a person has threatened or is about to commit a breach of the peace or an offense against the person or property of another, the judge shall:

(i) Examine under oath the complainant and any witnesses who may be produced;

(ii) Reduce the complaint and a concise statement of the testimony of the witnesses to writing; and

(iii) Cause the complaint to be subscribed and sworn to.

(c) If it appears there is probable cause to believe the offense will be committed, the judge shall issue a warrant for the arrest of the person complained against or issue a summons for him to appear and answer the complaint.

7-3-502. Examination of party complained against; recognizance to keep peace.

When the party complained against appears before the judge the testimony produced on both sides shall be heard if the allegations of the complaint are controverted. If, upon examination, it appears to the judge that there is no probable cause to believe that the offense will be committed, the person complained against shall be discharged. If, however, the judge finds that there is probable cause to believe that the offense will be committed, he shall order the person complained against to give a recognizance, with good and sufficient surety in the form of cash, bond or other property, in any sum the judge directs. The recognizance shall be conditioned that the person complained against shall keep the peace toward all people of this state, and especially towards the person against whom or whose property there is reason to believe the offense will be committed, for a period of time determined by the judge not exceeding twelve (12) months.

7-3-503. Compliance with recognizance order; failure to give recognizance.

(a) If a person ordered to give recognizance complies with the order he shall be discharged and the recognizance returned to him.

(b) If a person ordered to give recognizance and surety refuses or neglects to do so, the judge may order the person to show cause why he should not be committed to jail. If the judge finds that the person's default is willful or is due to his failure to make a good faith effort to obtain the surety required, the judge may order him committed to jail until the

surety, or a specified part thereof is given, provided that such commitment shall not exceed six (6) months.

7-3-504. Judgment against complainant; defects in complaint.

(a) If the person complained against is discharged after hearing because no probable cause is found and if the judge finds that the complaint was commenced maliciously and without reasonable cause on the part of the complainant, the judge may enter judgment against the complainant for the costs of the proceedings and the reasonable attorney's fees of the person complained against. If the person complained against is required to give recognizance the judge may assess the costs of the proceedings against him.

(b) A proceeding to prevent an offense under this article shall not be dismissed because of any informality or insufficiency of the complaint or other document in the proceeding. The complaint may be amended by the judge to conform to the evidence in the case.

7-3-505. Filing of recognizance; forfeiture.

A recognizance taken in accordance with W.S. 7-3-501 through 7-3-505 shall be filed by the clerk of the court in the court records. Upon a breach of the condition of the recognizance, the court shall declare a forfeiture of the security in the manner provided for the forfeiture of bail in criminal cases, except for good cause shown.

7-3-506. Definitions.

(a) As used in W.S. 7-3-506 through 7-3-512:

(i) "Court" means the circuit court in the county where an alleged victim of stalking or sexual assault resides, or where the alleged perpetrator of the stalking or sexual assault is found;

(ii) "Order of protection" means a court order granted for the protection of a victim of stalking or a victim of sexual assault;

(iii) "Sexual assault" means any act made criminal pursuant to W.S. 6-2-302 and 6-2-303 and 6-2-314 through 6-2-318 or an attempt or conspiracy to commit such act;

(iv) "Stalking" means conduct as defined by W.S. 6-2-506(b).

7-3-507. Petition for order of protection; contents; requisites; indigent petitioners.

(a) A petition for an order of protection for a victim may be filed by:

(i) The victim;

(ii) If the victim consents, the district attorney on behalf of the victim; or

(iii) Any person with legal authority to act on behalf of the victim if the victim is:

(A) A minor;

(B) A vulnerable adult as defined in W.S. 35-20-102(a)(xviii);

(C) Any other adult who, because of age, disability, health or inaccessibility, cannot file the petition.

(b) The petition shall be accompanied or supplemented by one (1) or more sworn affidavits setting out specific facts showing the alleged stalking or sexual assault and the identity of the alleged perpetrator.

(c) No filing fee shall be charged for the filing of a petition under this section nor shall a fee be charged for service of process.

(d) The attorney general shall promulgate a standard petition form which may be used by petitioners. The clerk of the circuit or district court shall make standard petition forms available to petitioners, with instructions for completion, without charge. If the petition is not filed by the district attorney, the court may appoint an attorney to represent an indigent petitioner. Nothing in this subsection shall prevent the victim from hiring an attorney or filing a petition pro se.

(e) A petition may be filed under this section whether or not the individual who is alleged to have engaged in a course of conduct prohibited under W.S. 6-2-506 or engaged in the conduct

specified in W.S. 7-3-506(a)(iii) has been charged or convicted for the alleged crime.

7-3-508. Temporary order of protection; setting hearing.

(a) Upon the filing of a petition for an order of protection, the court shall schedule a hearing on the petition to be conducted within seventy-two (72) hours after the filing of the petition, and shall cause each party to be served, either within or outside of this state, with an order to appear, a copy of the petition and a copy of the supporting affidavits. Service shall be made upon each party at least twenty-four (24) hours before the hearing. The failure to hold or complete the hearing within seventy-two (72) hours shall not affect the validity of the hearing or any order issued thereon.

(b) If the court determines from the specific facts shown by the petition and supporting affidavits that there exists a clear and present danger of further stalking, sexual assault or of serious physical adverse consequences to any person, the court may grant ex parte a temporary order of protection pending the hearing, and shall cause a copy of the temporary order of protection to be served on each party, either within or outside of this state. The court may prescribe terms in the temporary order of protection which it deems sufficient to protect the victim and any other person pending the hearing, including but not limited to the elements described in W.S. 7-3-509(a).

(c) A temporary order of protection issued under paragraph (b) of this section shall contain a notice that willful violation of any provision of the order constitutes a crime as defined by W.S. 7-3-510(c) and can result in immediate arrest. The order shall also state that a violation that constitutes the offense of stalking as defined by W.S. 6-2-506(b) may subject the perpetrator to enhanced penalties for felony stalking under W.S. 6-2-506(e).

(d) An ex parte temporary order of protection issued under this section shall not be admissible as evidence in any subsequent criminal proceeding or civil action for damages arising from the conduct alleged in the petition or the order.

(e) No testimony or evidence of the alleged actor in a hearing pursuant to subsection (a) of this section shall be admissible, including for impeachment purposes, or be deemed a waiver of any protection against self-incrimination under the constitution of the United States or of the state of Wyoming

unless, prior to the hearing, an information or indictment has been filed in a district court charging the alleged actor of a violation of sexual assault as defined by W.S. 7-3-506(a)(iii).

7-3-509. Order of protection; contents; remedies; order not to affect title to property.

(a) Following a hearing under W.S. 7-3-508(a) and upon a finding that conduct constituting stalking or sexual assault has been committed, the court shall enter an order of protection ordering the respondent to refrain from any further acts of stalking or sexual assault involving the victim or any other person. As a part of any order of protection, the court may direct that the respondent:

(i) Stay away from the home, school, business or place of employment of the victim or any other locations the court may describe in the order; and

(ii) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged offense and any other persons, including but not limited to members of the family or household of the victim, as the court may describe in the order. Prohibited contact under this paragraph includes telephone calls, mail, e-mail, texting, fax, contacting through social media using the internet or similar technology and any other form of communication.

(b) The order shall contain a notice that willful violation of any provision of the order constitutes a crime as defined by W.S. 7-3-510(c) and can result in immediate arrest. The order shall also state that a violation that constitutes the offense of stalking as defined by W.S. 6-2-506(b) may subject the perpetrator to enhanced penalties for felony stalking under W.S. 6-2-506(e).

(c) A request by the victim for the perpetrator to violate an order of protection issued under this section or a temporary order of protection issued under W.S. 7-3-508 shall constitute an affirmative defense to a charge of violation of the order by the perpetrator.

7-3-510. Service of order; duration and extension of order; violation; remedies not exclusive.

(a) An order of protection granted under W.S. 7-3-509 shall be served upon the respondent pursuant to the Wyoming

Rules of Civil Procedure. A copy of the order of protection shall be filed with the sheriff of the county.

(b) Except as otherwise provided by this subsection, an order of protection granted by the court under W.S. 7-3-509 shall be effective for a fixed period of time not to exceed three (3) years. Either party may move to modify, terminate or extend the order. The order may be extended repetitively upon a showing of good cause for additional periods of time, not to exceed three (3) years each, if the court finds from specific facts that a clear and present danger to the victim continues to exist. If a party subject to an order of protection is sentenced and incarcerated or becomes imprisoned, the running of the time remaining for the order of protection shall be tolled during the term of incarceration or imprisonment. The conditions and provisions of an order of protection shall remain in effect during any period of tolling under this subsection. Upon release from incarceration or imprisonment the effective period of the order of protection shall be the amount of time remaining as of the first day of the term of incarceration or imprisonment or one (1) year from the date of release, whichever is greater.

(c) Willful violation of a temporary order of protection issued under W.S. 7-3-508 or of an order of protection issued under W.S. 7-3-509 is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both. A temporary order of protection issued under W.S. 7-3-508 and an order of protection issued under W.S. 7-3-509 shall have statewide applicability and a criminal prosecution under this subsection may be commenced in any county in which the respondent commits an act in violation of the order.

(d) The remedies provided by W.S. 7-3-506 through 7-3-512 are in addition to any other civil or criminal remedy available under the law.

7-3-511. Emergency assistance by law enforcement officers; limited liability.

(a) A person who allegedly has been a victim of stalking or sexual assault may request the assistance of a law enforcement agency, which shall respond to the request in a manner appropriate to the circumstances.

(b) A law enforcement officer or agency responding to the request for assistance may take whatever steps are reasonably necessary to protect the victim, including:

(i) Advising the victim of the remedies available under W.S. 7-3-506 through 7-3-512 and the availability of shelter, medical care, counseling, safety planning, victim's rights counseling and other services;

(ii) Advising the victim, when appropriate, of the procedure for initiating proceedings under W.S. 7-3-506 through 7-3-512 or criminal proceedings and the importance of preserving evidence; and

(iii) Providing or arranging for transportation of the victim to a medical facility or place of shelter.

(c) Any law enforcement agency or officer responding to a request for assistance under W.S. 7-3-506 through 7-3-512 is immune from civil liability when complying with the request, provided that the agency or officer acts in good faith and in a reasonable manner.

7-3-512. Confidentiality in court proceedings. The court shall enter an order providing for the confidentiality of the name, address, city and state of residence or any other information identifying residence of all parties involved in the sexual assault for all orders issued under W.S. 7-3-508 and 7-3-509.

ARTICLE 6
COMMUNICATION INTERCEPTION

7-3-601. Repealed By Laws 2001, Ch. 140, § 2.

7-3-602. Repealed By Laws 2001, Ch. 140, § 2.

7-3-603. Repealed By Laws 2001, Ch. 140, § 2.

7-3-604. Repealed By Laws 2001, Ch. 140, § 2.

7-3-605. Repealed By Laws 2001, Ch. 140, § 2.

7-3-606. Repealed By Laws 2001, Ch. 140, § 2.

7-3-607. Repealed By Laws 2001, Ch. 140, § 2.

7-3-608. Repealed By Laws 2001, Ch. 140, § 2.

7-3-609. Repealed By Laws 2001, Ch. 140, § 2.

7-3-610. Repealed By Laws 2001, Ch. 140, § 2.

7-3-611. Repealed By Laws 2001, Ch. 140, § 2.

ARTICLE 7
COMMUNICATION INTERCEPTION

7-3-701. Definitions.

(a) As used in this act:

(i) "Aggrieved person" means any person who was a party to any oral, wire or electronic communication intercept as defined in this act, or a person against whom the interception was directed;

(ii) "Aural transfer" means a transfer containing the human voice at any point between and including the point of origin and the point of reception;

(iii) "Communication common carrier" shall have the same meaning which is given the term "common carrier" by 47 U.S.C. § 153(10);

(iv) "Contents" when used with respect to any oral, wire or electronic communication includes any information concerning the meaning, substance or purport of the communication;

(v) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce but does not include:

(A) Any wire or oral communication;

(B) Any communication made through a tone-only paging device;

(C) Any communication made through a tracking device as defined in 18 U.S.C. § 3117; or

(D) Electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

(vi) "Electronic communication service" means any service which provides to users thereof the ability to send or receive wire or electronic communications;

(vii) "Electronic communications system" means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of those communications;

(viii) "Electronic, mechanical or other device" means any device or apparatus which can be used to intercept a wire, oral or electronic communication, other than:

(A) Any telephone or telegraph instrument, equipment or facility or component thereof, used in the ordinary course of business or by a peace officer in the ordinary course of his duties; or

(B) A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(ix) "Intercept" means the aural or other acquisition of the contents of any oral, wire or electronic communication by use of an electronic, mechanical or other device;

(x) "Judge of competent jurisdiction" means a judge of a district court;

(xi) "Oral communication" means any oral communication uttered by a person who reasonably expects and circumstances justify the expectation that the communication is not subject to interception but does not include any electronic communication;

(xii) "Peace officer" means any peace officer included in W.S. 7-2-101(a)(iv)(A), (B) or (D), other than members of a college or university police force, and includes any law enforcement officer with federal criminal enforcement jurisdiction;

(xiii) "Provider of wire or electronic communication service" means any person who provides a service which consists

of communications by wire, radio, electronic, laser or other transmission of energy;

(xiv) "Readily accessible to the general public" means, with respect to a radio communication, that the communication is not:

(A) Scrambled or encrypted;

(B) Transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of the communication;

(C) Carried on a subcarrier or other signal subsidiary to a radio transmission;

(D) Transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

(E) Transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the rules of the federal communications commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio.

(xv) "User" means any person or entity who:

(A) Uses an electronic communication service; and

(B) Is duly authorized by the provider of the service to engage in the use.

(xvi) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection, including the use of such connection in a switching station, between the point of origin and the point of reception, furnished or operated by any person engaged in providing or operating such facilities for the transmission of intrastate, interstate or foreign communications, and includes any electronic storage of such communication;

(xvii) "This act" means W.S. 7-3-701 through 7-3-712.

7-3-702. Prohibition against interception or disclosure of wire, oral or electronic communications; exceptions; penalties.

(a) Except as provided in subsection (b) of this section, no person shall intentionally:

(i) Intercept, attempt to intercept, or procure any other person to intercept or attempt to intercept any wire, oral or electronic communication;

(ii) Use, attempt to use, or procure any other person to use or attempt to use any electronic, mechanical or other device to intercept any oral communication when:

(A) Such device is affixed to, or otherwise transmits a signal through, a wire, cable or other like connection used in wire communication; or

(B) Such device transmits communications by radio or interferes with the transmission of such communication.

(iii) Disclose or attempt to disclose to another person the contents of any wire, oral or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral or electronic communication in violation of this section;

(iv) Use or attempt to use the contents of any wire, oral or electronic communication knowing or having reason to know that the information was obtained through the interception of a wire, oral or electronic communication in violation of this section;

(v) Disclose, or attempt to disclose, to any other person the contents of any wire, oral or electronic communication, intercepted by means authorized by this act:

(A) Knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation;

(B) Having obtained or received the information in connection with a criminal investigation; and

(C) With intent to improperly obstruct, impede or interfere with a duly authorized criminal investigation.

(b) Nothing in subsection (a) of this section prohibits:

(i) An operator of a switchboard, or an officer, employee or agent of a wire or electronic communication service whose facilities are used in the transmission of a wire communication from intercepting, disclosing or using a wire or electronic communication intercepted in the normal course of that person's employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the provider of that service, except that a provider of wire communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks;

(ii) An officer, employee or agent of any provider of wire or electronic communications service, landlords, custodians or other persons from providing information, facilities or technical assistance to a peace officer who is authorized pursuant to this act to intercept a wire, oral or electronic communication if any such person has been provided with a court order directing such assistance. No provider of wire or electronic communication service, officer, employee or agent thereof, or landlord, custodian or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished a court order under this act, except as may otherwise be required by legal process and then only after prior notification to the attorney general. Any such disclosure, shall render such person liable for the civil damages provided for in W.S. 7-3-710. No criminal or civil cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees or agents, landlord, custodian or other specified person for providing information, facilities or assistance in accordance with the terms of a court order under this act;

(iii) An officer, employee or agent of the federal communications commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of 47 U.S.C. § 151 et seq., from intercepting a wire or electronic

communication, or oral communication transmitted by radio, or disclosing or using the information thereby obtained;

(iv) Any person from intercepting an oral, wire or electronic communication where the person is a party to the communication or where one (1) of the parties to the communication has given prior consent to the interception unless the communication is intercepted for the purpose of committing any criminal or tortious act;

(v) A peace officer from intercepting, using or disclosing to another peace officer in the course of his official duties any wire, oral or electronic communication pursuant to an order permitting the interception under this act;

(vi) An employee of a telephone company from intercepting a wire communication for the sole purpose of tracing the origin of the communication upon request by the recipient of the communication who alleges that the communication is obscene, harassing or threatening in nature. The person conducting the interception shall notify local law enforcement authorities of the interception within forty-eight (48) hours;

(vii) A person from intercepting or accessing an electronic communication made through an electronic communication system that is configured so that the electronic communication is readily accessible to the general public;

(viii) A person from intercepting any radio communication which is transmitted:

(A) By any station for the use of the general public, or that relates to ships, aircraft, vehicles or persons in distress;

(B) By any governmental, law enforcement, civil defense, private land mobile or public safety communications system, including police and fire, readily accessible to the general public;

(C) By a station operating on an authorized frequency within the bands allocated to the amateur, citizens band or general mobile radio services; or

(D) By any marine or aeronautical communications system.

(ix) A person from intercepting any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference;

(x) Other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of the system, if the communication is not scrambled or encrypted; or

(xi) Conduct described in this paragraph unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain. Conduct that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted:

(A) To a broadcasting station for purposes of retransmission to the general public; or

(B) As an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls.

(c) It shall not be unlawful under this act:

(i) To use a pen register or a trap and trace device authorized by article 8 of this chapter; or

(ii) For a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service.

(d) Except as provided in subsection (e) of this section, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

(e) A person or entity providing electronic communication service to the public may divulge the contents of any such communication:

(i) As otherwise authorized in W.S. 7-3-702(b)(i), (ii) or 7-3-706;

(ii) With the lawful consent of the originator or any addressee or intended recipient of such communication;

(iii) To a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

(iv) Which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.

(f) Except as otherwise provided in this subsection, any person who violates this section is guilty of a felony punishable by a fine of not more than one thousand dollars ($1,000.00), imprisonment for not more than five (5) years, or both. If the intercepted communication is the radio portion of a cellular telephone communication, a cordless telephone communication that is transmitted between the cordless handset and the base unit, a public land mobile radio service communication or a paging service communication, a violation of this section is a misdemeanor punishable by a fine of not more than seven hundred fifty dollars ($750.00), imprisonment for not more than six (6) months, or both.

7-3-703. Prohibition against manufacture and possession of wire, oral or electronic communication intercepting devices; exceptions; penalties.

(a) Except as provided in subsection (b) of this section, no person shall intentionally manufacture, assemble, possess, sell or offer for sale any electronic, mechanical or other device, knowing or having reason to know that the design of the device renders it primarily useful for the purpose of the surreptitious interception of wire, oral or electronic communications.

(b) Nothing in subsection (a) of this section prohibits an officer, agent, employee of or person under contract with or bidding upon contract with a provider of wire or electronic

communication services, the United States, a state or a political subdivision thereof, in the normal course of the activities of the United States, a state or a political subdivision thereof, to send through the mail, send or carry in interstate or foreign commerce, or manufacture, assemble, possess or sell any electronic, mechanical or other device, knowing or having reason to know that the design of the device renders it primarily useful for the purpose of the surreptitious interception of wire, oral or electronic communications.

(c) Nothing in subsection (a) of this section shall prohibit the manufacture, possession or use of an electronic or mechanical device to access a communication system that is configured so that the communication is readily accessible to the public.

(d) Any person who violates this section is guilty of a felony punishable as provided in W.S. 7-3-702(f) for felony violations.

7-3-704. Seizure and forfeiture of wire or oral communication intercepting devices.

Any electronic, mechanical or other device manufactured, assembled, used, sold or possessed in violation of this act may be seized by any peace officer upon process issued by any district court or district court commissioner having jurisdiction over the property, or without process if the seizure is incident to an arrest or a search under a search warrant or if the peace officer seizing the device has probable cause to believe the property was used or is intended to be used in violation of this act. Devices subject to seizure under this act are contraband subject to forfeiture in accordance with law.

7-3-705. Authorization for interception of wire, oral or electronic communications.

(a) The attorney general or the district attorney within whose jurisdiction the order is sought in conjunction with the attorney general, may authorize an application to a judge of competent jurisdiction for an order authorizing the interception of wire, oral or electronic communications by the Wyoming division of criminal investigation, federal criminal law enforcement agency or any law enforcement agency of the state having responsibility for investigation of the offense for which the application is made, if the interception may provide evidence of an attempt to commit, conspiracy to commit,

solicitation to commit or the commission of any of the following felony offenses or comparable crimes in any other jurisdiction:

(i) Violations of the Wyoming Controlled Substances Act of 1971;

(ii) Any of the following, if incident to or discovered during investigation of a violation of the Wyoming Controlled Substances Act of 1971:

(A) Murder as defined in W.S. 6-2-101 and 6-2-104;

(B) Kidnapping or related felony offense as defined in W.S. 6-2-201, 6-2-202 and 6-2-204;

(C) First or second degree sexual assault as defined in W.S. 6-2-302 and 6-2-303;

(D) Robbery as defined in W.S. 6-2-401;

(E) Blackmail as defined in W.S. 6-2-402;

(F) Burglary as defined in W.S. 6-3-301; or

(G) Felony theft or related felony offense defined in W.S. 6-3-402.

7-3-706. Authorization for disclosure and use of intercepted communications.

(a) Any peace officer who, by any means authorized by this act, has obtained knowledge of the contents of any wire, oral or electronic communication, or evidence derived therefrom, may disclose such contents to another peace officer to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(b) Any peace officer who, by any means authorized by this act, has obtained knowledge of the contents of any wire, oral or electronic communication or evidence derived therefrom may use such contents to the extent the use is appropriate to the proper performance of his official duties.

(c) Any person who has received, by any means authorized by this act, any information concerning a wire, oral or

electronic communication, or evidence derived therefrom intercepted in accordance with the provisions of this act, may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of the state or political subdivision thereof.

7-3-707. Procedure for interception of wire, oral or electronic communications.

(a) Each application for an order authorizing the interception of wire, oral or electronic communications shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority under W.S. 7-3-705(a) to make the application. Each application shall include the following information:

(i) The identity of the peace officer making the application and of the officer authorizing the application;

(ii) A full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that an order should be issued, including:

(A) Specific facts concerning the particular offense that is being investigated;

(B) Except as provided in subsection (t) of this section, a particular description of the nature and location of the facilities from which, or the place where, the communication is to be intercepted;

(C) A particular description of the type of communication sought to be intercepted;

(D) The identity of the person or persons, if known, who are suspected of committing the offense and whose communications are to be intercepted.

(iii) A full and complete statement as to whether or not other investigative procedures have been tried and have failed, or why they reasonably appear to be unlikely to succeed or would be too dangerous;

(iv) A statement of the required duration of the interception. If the nature of the investigation will require that the interception not automatically terminate when the

described type of communication has been first obtained, the application shall state a particular description of facts sufficient to establish probable cause to believe that additional communications of the same type will occur after the initial interception;

(v) A full and complete statement by the applicant concerning all previous applications known to the individual authorizing and making the application to have been made to any judge:

(A) For permission to intercept wire, oral or electronic communications involving any of the same persons, facilities or places specified in the application; and

(B) Action taken by the judge on each previous application.

(vi) If the application is for extension of an order, a complete statement shall be made setting forth the results thus far obtained from the interception or a reasonable explanation of the failure to obtain any results.

(b) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(c) Upon an application, the judge may issue an ex parte order, as requested or modified, authorizing interception of wire, oral or electronic communications within the territorial jurisdiction of the court in which the judge is sitting, and outside that jurisdiction but within the state of Wyoming in the case of a mobile interception device authorized by a district court within such district, if the judge determines on the basis of the facts submitted by the applicant that:

(i) There is probable cause for belief that the named person is committing or has committed any of the offenses enumerated in W.S. 7-3-705;

(ii) There is probable cause for belief that particular communications concerning those offenses will be intercepted;

(iii) Normal investigative procedures have been tried and have failed, or reasonably appear to be unlikely to succeed or would be too dangerous;

(iv) Except as provided in subsection (u) of this section, there is probable cause for belief that the facilities from which, or the place where, the wire, oral or electronic communications are to be intercepted is or is about to be used in connection with any of the offenses enumerated in W.S. 7-3-705 or is leased to, listed in the name of or used by the person suspected in the commission of any enumerated offense.

(d) Each order authorizing interception of wire, oral or electronic communications shall specify:

(i) The identity of the person or persons, if known, whose communications are to be intercepted;

(ii) The nature and location of the communications facilities as to which, or place where the authority to intercept is granted;

(iii) A particular description of the type of communication sought to be intercepted and a statement of the particular offense or offenses to which it relates;

(iv) The period of time during which an interception is authorized including a statement as to whether or not the interception shall automatically terminate when the described communication is first obtained;

(v) The identity of the agency authorized to intercept the communications and of the person authorizing the application.

(e) No order entered under this section may authorize the interception of any wire, oral or electronic communication for any period longer than is necessary to achieve the objective of the authorization, or in any event no longer than thirty (30) days unless extended under subsection (f) of this section. The thirty (30) day period provided by this subsection begins on the earlier of the day on which the peace officer first begins to conduct an interception under the order or ten (10) days after the order is entered.

(f) Extensions of an order may be granted upon an application for extension made in accordance with subsection (a) of this section and upon the findings required by subsection (c) of this section. The period of the extension shall be no longer than the authorizing judge deems necessary to achieve the

purposes for which it was granted and in any event no longer than thirty (30) days.

(g) Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, and that the execution of the permission shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this act. Every order or extension thereof shall also provide that the interception terminate upon attainment of the objective, or in any event in thirty (30) days.

(h) Whenever an order authorizing interception is entered pursuant to this act, the order may require reports to be made to the judge issuing the order, stating the progress which has been made toward achievement of the authorized objective and the need for continued interception. The reports shall be made at intervals as the judge may require.

(j) The contents of any wire, oral or electronic communication intercepted shall, if possible, be recorded on tape, electronic, wire, computer storage media or other comparable device. The recording shall be performed to protect it from editing or other alterations. Immediately upon expiration of the period of the order, or extension thereof, the recording shall be submitted to the judge issuing the order and shall be sealed under his directions. Custody of the recordings shall be wherever the judge orders. A recording shall not be destroyed except upon an order of the judge, and in any event shall be kept for ten (10) years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of this section. The presence of the seal provided for by this subsection, or a satisfactory explanation for its absence, is a prerequisite for the use or disclosure of the contents of any wire or oral communication or evidence derived therefrom.

(k) Applications made and orders granted under this act shall be sealed by the judge. Custody of the sealed applications and orders shall be maintained at the direction of the judge. The applications and orders shall be disclosed only upon a showing of good cause before a judge and shall not be destroyed except upon order of the judge to whom the application was presented, and in any event shall be kept for ten (10) years. Any information obtained pursuant to a court order permitting interception of wire, oral or electronic communications shall not be used, published or divulged except in accordance with the provisions of this act. Any violations of the provisions of this

subsection or subsection (j) of this section may be punished as contempt of the issuing or denying judge.

(m) Within a reasonable time, but not later than ninety (90) days after the denial of an application or the termination of the period of an order authorizing interception or extension thereof, the judge shall cause to be served upon each person named in the order or application and any other person the judge determines as in the interest of justice, notice of the following:

(i) That an order or application has been entered under this section;

(ii) The date of the entry and the period of permitted interception or the denial of the application; and

(iii) Whether wire, oral or electronic communications were or were not intercepted.

(n) The judge, upon the filing of a motion, may, in his discretion, make available to the person or his counsel for inspection any portion of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of competent jurisdiction, the service of the matter required by subsection (m) of this section may be postponed.

(o) The contents of any wire, oral or electronic communication intercepted pursuant to this section or evidence derived from that communication shall not be received in evidence or otherwise disclosed in any trial, hearing or other proceeding unless the party offering the evidence, not less than twenty (20) days before the trial, hearing or proceeding, gives notice to the court or hearing officer and all other parties. The court may then order disclosure of the court order and accompanying application. If the order of interception and accompanying application has previously been disclosed, the offering party may furnish all other parties with the order of interception and accompanying application without further order of the court or hearing officer upon proper notice. This twenty (20) day period may be waived by the court or hearing officer if it finds that it was not possible to furnish the party with the information twenty (20) days before the trial, hearing or proceeding and that no party will be prejudiced by the delay in receiving the information.

(p) The contents of any intercepted wire, oral or electronic communication or evidence derived therefrom shall not be admitted as evidence in any trial, hearing or other proceeding in this state unless the interception was performed in accordance with this act.

(q) No otherwise privileged wire, oral or electronic communication intercepted in accordance with or in violation of this act shall lose its privileged character, unless the communications are in furtherance of a criminal act in violation of the laws of the United States or this state.

(r) When a peace officer, while engaged in intercepting wire, oral or electronic communications relating to an offense specified in the order permitting interception, intercepts wire, oral or electronic communications relating to an offense other than those specified in the order, the contents thereof, and evidence derived therefrom, may be disclosed or used only if the offense constitutes a felony under the laws of the United States or this state. If the communication concerns an enumerated offense listed in W.S. 7-3-705, the agency executing the order of interception shall apply to the issuing court for an expansion of the order of interception pursuant to paragraph (a)(ii) of this section. The application shall be made as soon as practicable.

(s) In the event an intercepted communication is in a code or a foreign language, and an expert in that code or foreign language is not reasonably available during the interception period, any minimization required under this section shall be accomplished as soon as practicable after the interception.

(t) The requirements of subparagraph (a)(ii)(B) and paragraph (c)(iv) of this section relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if:

(i) In the case of an application with respect to the interception of an oral communication:

(A) The application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

(B) The judge finds that such specification is not practical.

(ii) In the case of an application with respect to a wire or electronic communication:

(A) The application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing that there is probable cause to believe that the person's actions could have the effect of thwarting interception from a specified facility;

(B) The judge finds that such showing has been adequately made; and

(C) The order authorizing the interception is limited to interception only for such time as it is reasonable to presume that the person identified in the application is or was reasonably proximate to the instrument through which such communication will be or was transmitted.

(u) An interception of a communication under an order with respect to which the requirements of subparagraph (a)(ii)(B) and paragraph (c)(iv) of this section do not apply by reason of paragraph (t)(i) of this section shall not begin until the place where the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in paragraph (t)(ii) of this section may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the prosecuting authority, shall decide such a motion expeditiously.

7-3-708. Order directing others to furnish assistance.

An order permitting the interception of a wire, oral or electronic communication shall, upon request of the applicant, direct that a provider of wire or electronic communication service, landlord, custodian or other person shall immediately furnish the applicant all information, facilities and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that the service provider, landlord, custodian or other person is supplying the person whose communication is to be intercepted. Any provider of wire or electronic communication service, landlord, custodian or other person furnishing these

facilities or technical assistance shall be compensated therefor by the applicant for reasonable expenses incurred in providing the facilities or assistance.

7-3-709. Information furnished to attorney general by executing agency; report to legislature.

(a) Upon final execution of an order of interception, the executing agency shall furnish the following information within ten (10) working days to the attorney general:

(i) The fact that an order or extension was applied for, information as to the number of orders, extensions and expansions made by the court including:

(A) Whether or not the order was one with respect to which the requirements of W.S. 7-3-707(a)(ii)(B) and (c)(iv) did not apply by reason of W.S. 7-3-707(t);

(B) The fact that the order or extension was granted as applied for, was modified or was denied;

(C) The period of interceptions authorized by the order, and the number and duration of any extensions of the order; and

(D) The identity of the applying peace officer and agency making the application and the person authorizing the application.

(ii) Each offense specified in the application order or extension of an order;

(iii) The nature of the facilities from which or the place where communications were to be intercepted;

(iv) A general description of the interceptions made under any order or extension, including the approximate nature and frequency of incriminating communications intercepted and approximate nature and frequency of other communications intercepted, the number of persons whose communications were intercepted and the nature, amount and cost of the manpower and other resources used in the interceptions.

(b) The prosecuting authority or investigating law enforcement agency shall report to the attorney general by April

1, for the preceding calendar year in which an order was applied for under this act:

(i) The number of arrests resulting from interceptions made under the order or extension and the offenses for which arrests were made;

(ii) The number of trials resulting from such interceptions;

(iii) The number of motions to suppress made with respect to such interceptions, and the number granted or denied; and

(iv) The number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions.

(c) The attorney general shall report to the joint judiciary interim committee no later than July 1 of each year. The report shall contain the information required by subsections (a) and (b) of this section.

7-3-710. Recovery of civil damages for violations; good faith defense.

(a) Subject to W.S. 7-3-702(b)(ii), any person whose wire, oral or electronic communication is intercepted, disclosed or used in violation of this act may recover damages against any person who intercepts, discloses, uses or procures any other person to intercept, disclose or use the communications as follows:

(i) Actual damages but not less than one thousand dollars ($1,000.00) a day for each day of violation;

(ii) Punitive damages; and

(iii) Reasonable attorney's fees and other litigation costs reasonably incurred.

(b) A good faith reliance on a court order constitutes a complete defense to any civil or criminal action brought under this act.

7-3-711. Exclusivity of provisions.

This act shall be the exclusive means by which any interception of wire, oral or electronic communications may be permitted for investigation of the violation of any law, statute or ordinance of the state of Wyoming or any local, municipal or other governmental unit.

7-3-712. Reports by attorney general and state courts.

The attorney general and Wyoming courts shall report to the administrative office of the United States courts pursuant to 18 U.S.C. § 2519.

ARTICLE 8
PEN REGISTERS

7-3-801. Definitions.

(a) As used in this act:

(i) "Attorney for the state" means the attorney general or his designee, or district attorney;

(ii) "Court of competent jurisdiction" means a district court;

(iii) "Peace officer" means as defined in W.S. 7-3-701;

(iv) "Pen register" means a device which identifies on hook and off hook conditions and records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which the device is attached, but the term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by the provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;

(v) "Trap and trace device" means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted;

(vi) "Wire communication", "electronic communication" and "electronic communication service" have the same meanings set forth in W.S. 7-3-701;

(vii) "This act" means W.S. 7-3-801 through 7-3-806.

7-3-802. General prohibition on pen register and trap and trace device use; exception.

(a) Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining a court order under W.S. 7-3-804.

(b) The prohibition of subsection (a) of this section does not apply with respect to the use of a pen register or a trap and trace device by a provider of electronic or wire communication service:

(i) Relating to the operation, maintenance and testing of a wire or electronic communication service or to the protection of the rights or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service;

(ii) To record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful or abusive use of service; or

(iii) Where the consent of the user of that service has been obtained.

(c) A state or local agency authorized to install and use a pen register under this act shall use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing and signaling information utilized in call processing.

(d) Whoever knowingly violates subsection (a) of this section shall be fined not more than one thousand dollars ($1,000.00), imprisoned not more than one (1) year, or both.

7-3-803. Application for an order for a pen register or a trap and trace device.

(a) An attorney for the state may make application for an order or an extension of an order under W.S. 7-3-804 authorizing the installation and use of a pen register or a trap and trace device under this act, in writing under oath or equivalent affirmation, to a court of competent jurisdiction only for investigations of violations of the Wyoming Controlled Substances Act of 1971.

(b) An application under subsection (a) of this section shall include:

(i) The identity of the attorney for the state, making the application and the identity of the law enforcement agency conducting the investigation; and

(ii) A certification by the applicant that the information likely to be obtained is relevant to an ongoing investigation of a violation of the Wyoming Controlled Substances Act of 1971 being conducted by that agency.

7-3-804. Issuance of an order for a pen register or a trap and trace device.

(a) Upon an application made under W.S. 7-3-803, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the state if the court finds that the attorney for the state has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing investigation of a violation of the Wyoming Controlled Substances Act of 1971.

(b) An order issued under this section:

(i) Shall specify:

(A) The identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached;

(B) The identity, if known, of the person who is the subject of the criminal investigation;

(C) The number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and

trace device, the geographic limits of the trap and trace order; and

(D) A statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates.

(ii) Shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device under W.S. 7-3-805.

(c) An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed sixty (60) days. Extensions of the order may be granted, but only upon an application for an extension meeting the requirements of W.S. 7-3-803 and upon the judicial finding required by subsection (a) of this section. Each period of extension shall be for a period not to exceed sixty (60) days.

(d) An order authorizing the installation and use of a pen register or a trap and trace device shall direct that:

(i) The order be sealed until otherwise ordered by the court; and

(ii) The person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

7-3-805. Assistance in installation and use of a pen register or a trap and trace device.

(a) Upon the request of an attorney for the state or an officer of a law enforcement agency authorized to install and use a pen register under this act, a provider of wire or electronic communication service, landlord, custodian or other person shall furnish such investigative or peace officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the

party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in W.S. 7-3-804(b)(ii).

(b) Upon the request of an attorney for the state or an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this act, a provider of a wire or electronic communication service, landlord, custodian or other person shall install such device forthwith on the appropriate line and shall furnish such investigative or peace officer all additional information, facilities and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in W.S. 7-3-804(b)(ii). Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished, pursuant to W.S. 7-3-804(b), to the officer of a law enforcement agency, designated in the court order, at reasonable intervals during regular business hours for the duration of the order.

(c) A provider of a wire or electronic communication service, landlord, custodian or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

(d) No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order under this act.

(e) A good faith reliance on a court order under this act, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this act or any other law.

7-3-806. Reports concerning pen registers and trap and trace devices.

The attorney general shall annually report to the joint judiciary interim committee on the number of pen register orders and orders for trap and trace devices applied for under this

act. The report shall be provided no later than July 1 of each year.

ARTICLE 9
LAW ENFORCEMENT INTERSTATE MUTUAL AID

7-3-901. Short title.

This act shall be known and may be cited as the "Law Enforcement Interstate Mutual Aid Act."

7-3-902. Definitions.

(a) When used in this act, unless the context requires otherwise, the following definitions apply:

(i) "Law enforcement agency" means a lawfully established federal, state or local public agency that is responsible for the prevention and detection of crime and the enforcement of penal, traffic, regulatory or criminal laws;

(ii) "Law enforcement agency of an adjoining state" includes a law enforcement agency of an adjoining state and any political subdivision of that state;

(iii) "Law enforcement employee of an adjoining state" means an employee of a law enforcement agency trained and certified in accordance with the laws of the state or jurisdiction where regularly employed by the United States, an adjoining state or political subdivision;

(iv) "Mutual aid agreement" or "an agreement" means an agreement between two (2) or more law enforcement agencies consistent with the purposes of this act;

(v) "Party law enforcement agency" means a law enforcement agency that is a party to a mutual aid agreement as set forth in this act;

(vi) "Wyoming law enforcement agency" includes a sheriff, municipal, college or university police force, Wyoming highway patrol and the division of criminal investigation;

(vii) "Wyoming law enforcement employee" has the same meaning as "peace officer" as defined in W.S. 7-2-101 but does not include those officers specified in W.S. 7-2-101(a)(iv)(K);

(viii) "This act" means W.S. 7-3-901 through 7-3-910.

7-3-903. Authorization to enter agreement; general content; authority of law enforcement employee.

(a) Any one (1) or more law enforcement agencies of this state may enter into a mutual aid agreement with any one (1) or more law enforcement agencies of an adjoining state or the United States to render assistance in the provision of the law enforcement or emergency services that the requesting party is authorized by law to perform. Except as authorized by W.S. 7-3-904(b), any agreement under this act shall be limited to providing assistance in an emergency or special event as determined by the governor. The governor shall have emergency procedures in place for immediate approval of any mutual aid agreement, which may include oral authorization by the governor, subject to subsequent written agreement as provided by this act. If required by applicable law, the agreement shall be authorized and approved by the governing body of each party to the agreement.

(b) The written agreement shall fully set forth the powers, rights and obligations of the parties to the agreement.

(c) A mutual aid agreement may grant a law enforcement employee or officer of any party law enforcement agency acting within the territorial jurisdiction of any other party law enforcement agency authority to act as if he were a duly appointed and qualified law enforcement employee or officer of the law enforcement agency he is assisting.

7-3-904. Detailed content of agreement.

(a) Any written agreement under this act shall specify the following:

(i) Its duration, which shall be not more than four (4) years;

(ii) The purpose of the agreement;

(iii) The manner of financing the agreement and establishing and maintaining a budget therefor;

(iv) The method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(v) Provision for administering the agreement, which may include creation of a joint board responsible for such administration;

(vi) The manner of acquiring, holding and disposing of real and personal property used in the agreement;

(vii) The minimum standards for law enforcement employees implementing the provisions of the agreement;

(viii) The respective liability of each party to the agreement for the actions of law enforcement employees when acting under the provisions of the agreement;

(ix) The minimum insurance, if any, required of each party to the agreement;

(x) The exact chain of command or delegation of authority to be followed by law enforcement employees acting under the provisions of the agreement;

(xi) The enforcement authority that the law enforcement employee of each party law enforcement agency may exercise;

(xii) Provisions for any specific immunities not listed in W.S. 7-3-910 and for defending law enforcement employees in civil litigation;

(xiii) Any other necessary and proper matters.

(b) The agreement may include specified emergency or special events for which the parties to the agreement and the governor concur that law enforcement may respond under the mutual aid agreement without the governor's authorization required under W.S. 7-3-903.

7-3-905. Right of state in actions involving agreements.

In any case or controversy involving performance or interpretation of, or liability under, a mutual aid agreement entered into between one (1) or more law enforcement agencies of this state or political subdivisions of this state and one (1) or more law enforcement agencies of an adjoining state or of the United States, the parties to the agreement are the real parties in interest.

7-3-906. Agreement not to relieve agency of duties.

No agreement made under this act may relieve any law enforcement agency of this state of any duty imposed upon it by law. Timely performance of such a duty by a joint board or other legal or administrative entity created by a mutual aid agreement may be offered in satisfaction of the duty.

7-3-907. Limitation of powers.

Except for the right granted by this act to jointly exercise powers, this act does not authorize any law enforcement agency of this state to exercise any power within this state that it is not otherwise authorized to exercise.

7-3-908. Submission of agreement to attorney general.

As a condition precedent to a written agreement becoming effective under this act, the agreement shall be submitted to and receive the approval of the attorney general. Except as provided by W.S. 7-3-903, no agreement shall become effective under this act until signed by the governor.

7-3-909. Filing of agreement.

Within twenty (20) days after approval by the attorney general, a written agreement made pursuant to this act shall be filed in the office of the secretary of state.

7-3-910. Immunity.

Whenever the employees of a law enforcement agency of an adjoining state are rendering aid pursuant to the request of a Wyoming law enforcement agency under an agreement pursuant to this act, the employees shall have the same powers, duties, rights, privileges and immunities as comparable Wyoming law enforcement employees as provided for in the agreement.

CHAPTER 4
COUNTY CORONERS

ARTICLE 1
IN GENERAL

7-4-101. Election; oath; bond.

A coroner shall be elected in each county for a term of four (4) years. He shall take the oath prescribed by the constitution of the state and give bond to the state of Wyoming, in the penal sum of one thousand dollars ($1,000.00), with sufficient sureties, to be approved by the board of county commissioners, conditioned that he will faithfully perform all duties required by law.

7-4-102. Deputy coroners.

The county coroner may appoint deputy coroners, who shall serve in the absence or inability of the coroner and who shall receive compensation as the board of county commissioners determines by resolution.

7-4-103. Certification requirements; penalty; expenses.

(a) After January 5, 1987, no person shall continue in office as county coroner or deputy coroner unless he has been certified under W.S. 9-1-634 as having completed:

(i) Not later than one (1) year after assuming office, a basic coroner course;

(ii) Continuing education requirements promulgated by the board of coroner standards pursuant to W.S. 7-4-211(c)(iii).

(b) Any person who knowingly fails to comply with subsection (a) of this section and continues in office is guilty of a misdemeanor punishable by a fine of twenty-five dollars ($25.00) for each day of noncompliance.

(c) Each coroner or deputy coroner attending approved classes to receive the certification required by subsection (a) of this section shall receive his present salary or per diem in the same manner and amount as state employees, whichever is greater, and shall be reimbursed for his actual travel and other necessary expenses reasonably incurred in obtaining the required training. The expenses shall be paid by the county in which the coroner or deputy coroner is serving.

(d) After July 1, 2001, no person shall serve as deputy coroner or as an employee of a county coroner who does not meet the employment standards adopted by the board of coroner standards pursuant to W.S. 7-4-211(c)(v).

7-4-104. Definitions.

(a) As used in this chapter:

(i) "Coroner's case" means a case involving a death which was not anticipated and which may involve any of the following conditions:

(A) Violent or criminal action;

(B) Apparent suicide;

(C) Accident;

(D) Apparent drug or chemical overdose or toxicity;

(E) The deceased was unattended by a physician or other licensed health care provider;

(F) Apparent child abuse causes;

(G) The deceased was a prisoner, trustee, inmate or patient of any county or state corrections facility or state hospital, whether or not the death is unanticipated;

(H) If the cause is unknown or cannot be certified by a physician;

(J) A public health hazard is presented; or

(K) The identity of the victim is unknown or the body is unclaimed.

(ii) "Coroner's office" means all personnel appointed and elected to the office of coroner, including the county coroner, deputies and assistants;

(iii) "County coroner" means the elected or appointed officer of the county whose task is to investigate the cause of death in a coroner's case;

(iv) "Anticipated death" means the death of an individual who had been diagnosed by a physician acting within the scope of his license as being afflicted with an illness or disease reasonably likely to result in death, and there is no cause to believe the death occurred for any reasons other than those associated with the illness or disease;

(v) "Unattended" means the deceased had not been under the care of a physician or other health care provider acting within the scope of his license within sixty (60) days immediately prior to the date of death.

7-4-105. Confidentiality of reports, photos and recordings; exceptions; penalties.

(a) After viewing the body and completing his investigation, the coroner shall draw up and sign his verdict on the death under consideration. The coroner shall also make a written docket giving an accurate description of the deceased person, his name if it can be determined, cause and manner of death, including relevant toxicological factors, age of decedent, date and time of death and the description of money and other property found with the body. The verdict and written docket are public records and may be viewed or obtained by request to the coroner, pursuant to W.S. 16-4-202.

(b) Except as provided in subsections (c), (d), (e), (g) and (o) of this section a toxicology report, a photograph, video recording or audio recording made at the scene of the death or made in the course of a postmortem examination or autopsy made or caused by a coroner shall be confidential and are not public records.

(c) A surviving spouse, surviving parent, an adult child, personal representative, legal representative, or a legal guardian may:

(i) View and copy a toxicology report, a photograph or video recording made at the scene of the death or made in the course of a postmortem examination or autopsy made by or caused by a coroner; and

(ii) Listen to and copy an audio recording made at the scene of the death or made in the course of a postmortem examination or autopsy made by or caused by a coroner.

(d) Upon making a written request, a law enforcement entity of the state of Wyoming or United States government, a district attorney, the United States attorney for the district of Wyoming, a county, state or federal public health agency, a board licensing health care professionals under title 33 of the Wyoming statutes, the division responsible for administering the Wyoming Workers' Compensation Act, the state occupational

epidemiologist, the department and the division responsible for administering the Wyoming Occupational Health and Safety Act, the office of the inspector of mines, insurance companies with legitimate interest in the death, all parties in civil litigation proceedings with legitimate interest in the death or a treating physician, while in performance of his official duty may:

(i) View and copy a toxicology report, photograph or video recording made at the scene of the death or made in the course of a postmortem examination or autopsy made by or caused by a coroner; and

(ii) Listen to and copy an audio recording made at the scene of the death or made in the course of a postmortem examination or autopsy made by or caused by a coroner.

(e) Unless otherwise required in the performance of official duties, the identity of the deceased shall remain confidential in any record obtained under subsection (d) of this section.

(f) The coroner having custody of a toxicology report, a photograph, a video recording or an audio recording made at any scene of the death or made in the course of a postmortem examination or autopsy may allow the use for case consultation with an appropriate expert. The coroner may also allow the use of a toxicology report, a photograph, a video recording or an audio recording made at the scene of the death or made in the course of a postmortem examination or autopsy by legitimate scientific research organizations or for training purposes provided the identity of the decedent is not published or otherwise made public.

(g) A court upon showing of good cause, may issue an order authorizing a person to:

(i) View or copy a toxicology report, photograph or video recording made at the scene of the death or made in the course of a postmortem examination or autopsy made or caused by a coroner; and

(ii) Listen to and copy an audio recording made at the scene of the death or made in the course of a postmortem examination or autopsy made or caused by a coroner.

(h) In determining good cause under subsection (g) of this section, the court shall consider:

(i) Whether the disclosure is necessary for the public evaluation of governmental performance;

(ii) The seriousness of the intrusion into the family's privacy;

(iii) Whether the disclosure of the toxicology report, photograph, video recording or audio recording is by the least intrusive means available; and

(iv) The availability of similar information in other public records regardless of form.

(j) A surviving spouse shall be given reasonable notice and a copy of any petition filed with the court under subsection (g) of this section and reasonable opportunity to be present and be heard on the matter. If there is no surviving spouse, the notice of the petition being filed and the opportunity to be heard shall be given to the deceased's parents and if the deceased has no living parent, the notice of the petition being filed and the opportunity to be heard shall be given to the adult children of the deceased or legal guardian, personal representative or legal representative of the children of the deceased.

(k) A coroner or coroner's designee that knowingly violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than one thousand dollars ($1,000.00), or both.

(m) A person who knowingly or purposefully uses the information in a manner other than the specified purpose for which it was released or violates a court order issued under subsection (g) of this section is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than one thousand dollars ($1,000.00), or both.

(n) In all cases, the viewing, copying, listening to, or other handling of a toxicology report, photograph, video recording, or audio recording made at a scene of the death or made in the course of a postmortem examination or autopsy made or caused by a coroner shall be under the direct supervision of the coroner, or the coroner's designee, who is the custodian of the record.

(o) In the event that the coroner, or the coroner's designee, determines that a person's death was caused by an infectious disease, biological toxin or any other cause which may constitute a public health emergency as defined in W.S. 35-4-115(a)(i), the coroner shall release to the state health officer or his designee all information and records required under W.S. 35-4-107. If the state health official or his designee determines upon an examination of the results of the autopsy and the toxicology report that a public health emergency may in fact exist, he shall release the appropriate information to the general public as provided by department of health rules and regulations.

7-4-106. Archaeological human burial sites.

(a) The county coroner shall have jurisdiction over all archaeological human burials discovered in the county on state or private lands.

(b) When human remains are discovered:

(i) The person who discovers the remains shall cease the activity that caused the discovery of the remains and immediately notify law enforcement. If the remains are discovered on private land and the person who discovers the remains is not an agent of the landowner, the individual shall also notify the landowner;

(ii) When law enforcement is notified that human remains have been discovered within the limits of the county, law enforcement shall notify the coroner who shall determine the approximate age of the burial site. If the human remains constitute an archaeological human burial:

(A) On private land, the coroner shall notify the state archaeologist and the landowner;

(B) On state land, the coroner shall notify the state archaeologist and the office of state lands and investments. The office of state lands and investments shall notify any leaseholder;

(C) The state archaeologist's investigation to determine the forensic value and archaeological context shall be:

(I) Commenced within two (2) business days of the discovery to protect the integrity of the remains;

(II) Limited to the discovered human burial site.

(c) When human remains are exhumed:

(i) An archaeological human burial shall only be exhumed under the direction and supervision of the state archaeologist in coordination with the county coroner, and provided:

(A) The coroner shall notify the landowner of exhumation; and

(B) If the state archaeologist determines that the remains are Native American, the state archaeologist shall notify the Eastern Shoshone and Northern Arapaho Tribes before exhumation.

(ii) Absent extraordinary circumstances, exhumation shall be completed not more than six (6) business days from the date the coroner notifies the state archaeologist of the archeological human burial discovery to protect the safety and integrity of the remains.

(d) When human remains are reinterred:

(i) When the state archaeologist determines that an archaeological human burial is Native American, after archaeological human remains are exhumed and before reinterment or repatriation, the state archaeologist and county coroner shall:

(A) Notify and consult with culturally affiliated Native American tribes in accordance with the protocol developed pursuant to subsection (f) of this section; and

(B) Expend reasonable effort to identify present day descendants.

(ii) When the state archaeologist determines that an archaeological human burial is not Native American, the state archaeologist shall expend reasonable effort to identify present day descendants and consult with them before reinterment;

(iii) If no descendants of the person whose remains were exhumed are identifiable, remains may be reinterred on state lands;

(iv) Subject to the notification of law enforcement, the coroner and the state archaeologist and the procedures in this section, nothing in this section precludes a landowner from working with descendants or Native American tribes to reinter human remains on private lands with the landowner's consent.

(e) Human remains shall be treated with respect, dignity and with consideration of religious, spiritual and ethnic evidence present at the burial site.

(f) The state archaeologist in cooperation with the state historic preservation office and county coroners shall work with culturally affiliated tribes including the Eastern Shoshone and Northern Arapaho tribes to develop a protocol for consultation, repatriation and reinterment or other disposition of Native American human remains.

(g) For purposes of this section, "archaeological human burial" includes human remains and funerary objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains at the time of death or later but does not include remains found in known or marked graves, found in established cemeteries or that demonstrate present medicolegal significance.

(h) A person who knowingly violates this section is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than five thousand dollars ($5,000.00), or both.

ARTICLE 2
INQUESTS

7-4-201. Reports of death; investigation; summoning of jurors; fees and costs; inspection of medical records.

(a) When any person is found dead and the death appears to have occurred under circumstances indicating the death is a coroner's case, the person who discovers the death shall report it immediately to law enforcement authorities who shall in turn notify the coroner. A person who knowingly violates this section is guilty of a misdemeanor punishable by imprisonment

for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

(b) When the coroner is notified that the dead body of any person has been found within the limits of the county or that the death resulted from injury sustained within the county and he suspects that the death is a coroner's case, he shall conduct an investigation which may include:

(i) An examination of the body and an investigation into the medical history of the case;

(ii) The appointment of a qualified physician to assist in determining the cause of death;

(iii) An autopsy if the physician appointed to assist the coroner under this subsection determines an autopsy is necessary;

(iv) An inquest; or

(v) Any other reasonable procedure which may be necessary to determine the cause of death.

(c) If the coroner determines to hold an inquest he shall summon three (3) citizens of the county to appear before him to act as jurors at the time and place named. The jurors shall receive the same fee paid jurors in district court as provided in W.S. 1-11-303 and per diem and travel expenses in the same manner as state employees. The coroner may furnish transportation for the jury and witnesses to and from the place of inquest and for the removal of the dead body.

(d) If a coroner determines the injuries which caused the person's death were received in a county other than that in which the body was found, he shall transfer authority for the investigation and inquest to the coroner for that county.

(e) The expense and costs of conducting the investigation or holding the inquest shall be paid by the county in which the injuries were received. The accounts of the claimants shall be attested by the coroner or acting coroner, and shall be presented in duplicate to the board of county commissioners of the proper county. If the board of county commissioners finds that the inquest was necessary and in accordance with law, and the accounts are correct and just, the accounts shall be paid in

warrants properly drawn upon the order of the county commissioners.

(f) Notwithstanding any other provision of law to the contrary, the coroner may inspect medical and psychological data relating to the person whose death is being investigated if the coroner determines the information is relevant and necessary to the investigation.

7-4-202. Impaneling of bystanders as jurors; oath.

If any juror fails to appear, the coroner shall immediately summon the proper number from the bystanders and proceed to impanel them. He shall administer the following oath: "You do solemnly swear (or affirm) that you will diligently inquire and truly present if known or determinable, the time and date of death, and by what means and manner the death of (NAME OF DECEASED) was caused, according to your knowledge and the evidence given you, so help you God."

7-4-203. Issuance of subpoenas; witness fees; enforcement of attendance.

The coroner may issue subpoenas and compel the attendance of witnesses to testify at the inquest. Witnesses shall be allowed the same fees as in cases before a circuit court, and the coroner shall have the same authority to enforce the attendance of witnesses and to punish for contempt as provided by W.S. 1-21-901 through 1-21-909.

7-4-204. Oath of witness; recording of testimony; compensation of reporter.

An oath shall be administered to each witness as follows: "You do solemnly swear (or affirm) that the testimony which you shall give to this inquest concerning the death of the person about whom this inquest is being held, shall be the truth, the whole truth and nothing but the truth, so help you God." The coroner shall insure that all testimony in an inquest shall be recorded. The compensation of the court reporter or of the person transcribing the audio tape shall be as prescribed by the board of county commissioners. Unless specifically requested by the coroner or prosecuting attorney, audio tapes need not be transcribed.

7-4-205. Return of inquisition by jury.

After hearing testimony and making necessary inquiries, the jurors shall return to the coroner their signed inquisition stating the name of the person and when, how and by what means, if known, he came to his death.

7-4-206. Coroner's return to court.

The coroner shall return to the district court the inquisition, the written evidence and a list of witnesses providing material testimony.

7-4-207. Disposition of body and effects of deceased.

(a) When the coroner investigates the death of a person whose body is not claimed by a friend or relative within five (5) days of the date of discovery and whose death does not require further investigation, he shall cause the body to be decently buried. The expense of the burial shall be paid from any property found with the body. If no property is found, the expense of the burial shall be paid by the county in which the investigation occurs.

(b) The coroner shall within a reasonable time after completing the investigation, turn over to the appointed personal representative of the estate of the deceased or, if none, to the clerk of the district court of the county, all money or other property found upon the body of the deceased. Personal items valued at less than fifty dollars ($50.00) and items necessary for the convenience of the deceased's next of kin may be released to the deceased's next of kin.

7-4-208. Authority of sheriff to perform duties of coroner.

If there is no coroner, deputy coroner or in case of their absence, or inability to act, the county sheriff of the same county, the state health officer pursuant to W.S. 35-1-241, or the coroner of another county if there is a joint powers agreement pursuant to W.S. 16-1-102 through 16-1-108 between the counties authorizing the coroner to so act, is authorized to perform the duties of coroner in relation to dead bodies.

7-4-209. Postmortem examination; liability limitation.

(a) When an inquisition is being held, if the coroner or the jury shall deem it requisite, he may summon one (1) or more

physicians or surgeons, to make an autopsy or postmortem examination.

(b) If it is necessary to obtain or preserve evidence of the cause of death, the district attorney may order that a qualified physician perform an autopsy or postmortem examination of the body of any person who appears to have died by unlawful means, by violence, or when the cause of death is unknown.

(c) No person is subject to civil liability solely because he requested or was involved in the performing of an autopsy that was ordered by a coroner or district attorney.

7-4-210. Fees and mileage; salary.

(a) The coroner or deputy coroner of each county within this state shall receive fees and mileage, if any, as set by the board of county commissioners.

(b) The board of county commissioners shall set the salary of the coroner and deputy coroner. A coroner or deputy coroner shall not be prohibited from receiving other fees for their services unrelated to their official duties as coroner or deputy coroner.

7-4-211. Board of coroner standards.

(a) There is created a board of coroner standards. The board shall consist of one (1) chairman and six (6) members appointed by and who shall serve at the pleasure of the governor as follows:

(i) One (1) shall be a physician with a specialty in pathology who is licensed to practice in this state;

(ii) Three (3) shall be duly elected coroners in this state;

(iii) One (1) shall be a funeral director in this state;

(iv) One (1) shall be a duly elected district attorney in this state;

(v) One (1) shall be a peace officer certified under W.S. 9-1-701 through 9-1-711.

(b) The members of the board shall be appointed to terms of four (4) years which are concurrent with the terms of the office of coroner. Board members not otherwise compensated for attending board meetings shall receive travel expenses and per diem in the same manner and amount as state employees, and any other reasonable expenses upon board approval. Board members not otherwise compensated shall have their expenses paid from the general fund by appropriation to the office of the attorney general.

(c) The board shall:

(i) Meet at least biannually and at the call of the chairman or of a majority of the membership;

(ii) Promulgate standards dealing with the investigation of coroner's cases;

(iii) Promulgate educational and training requirements for coroner basic and continuing education requirements and review those requirements annually;

(iv) Cooperate with the peace officer standards and training commission in developing basic and continuing education courses for coroners;

(v) Promulgate employment standards for deputy coroners and coroner employees. The standards may include the requirement that deputy coroners and coroner employees provide to the employing coroner fingerprints and other information necessary for a state and national criminal history record background check and release of information as provided in W.S. 7-19-106(k)(ii) and federal P.L. 92-544 and consent to the release of any criminal history information to the employing coroner;

(vi) Promulgate rules and regulations to provide for the review of complaints if a coroner or deputy coroner has failed to comply with any provision of W.S. 7-4-103 or this subsection or has failed to meet any educational or training requirement provided under this section. The board shall make recommendations to the peace officer standards and training commission regarding revocation of certifications based on these investigations;

(vii) Provide for a system to offer educational programs to assist coroners and deputy coroners in meeting

educational and training requirements provided under this section.

(d) The peace officer standards and training commission shall cooperate with the board of coroner standards in establishing course requirements and continuing education requirements required by law.

(e) The board shall contact the district attorney for the county or the attorney general to initiate an action and may serve as complaining party in an action under W.S. 7-4-103(b) or 18-3-902 to remove any coroner who is not in compliance with W.S. 7-4-103.

(f) In addition to any action under subsection (e) of this section, the board shall notify the county commissioners for the county of any coroner or deputy coroner who has had his certification revoked.

CHAPTER 5
GRAND JURY

ARTICLE 1
IN GENERAL

7-5-101. Required court order for summoning.

A grand jury shall be summoned only when ordered by a judge of the district court.

7-5-102. Manner of summoning; term.

A grand jury shall be selected, summoned and impaneled in the same manner as trial juries in civil actions and shall serve for one (1) year following selection unless discharged sooner by the district judge.

7-5-103. Composition; qualifications; alternates.

(a) A grand jury shall consist of twelve (12) persons who shall possess the qualifications of trial jurors as provided by W.S. 1-11-101.

(b) The district judge may direct the selection of one (1) or more alternate jurors who shall sit as regular jurors before an indictment is found. If a member of the grand jury becomes

unable or disqualified to perform his duty he shall be replaced by an alternate juror.

7-5-104. Finding of indictment.

(a) No indictment shall be found unless the finding is concurred in by at least nine (9) members of the grand jury.

(b) Not less than nine (9) jurors may act as the grand jury in which event it is required that all of them concur in finding an indictment.

(c) If an indictment is found as provided by this section the foreman of the grand jury shall endorse upon the indictment the words "A True Bill" and shall sign the indictment.

ARTICLE 2
PROCEEDINGS

7-5-201. Appointment of foreman; oath of jurors.

(a) The district judge shall appoint one (1) of the jurors to be foreman. The foreman is authorized to administer oaths to witnesses and shall sign indictments as provided by W.S. 7-5-104.

(b) Before entering upon their duties, an oath or affirmation shall be administered to the foreman and each of the jurors providing, in substance, that each of them will:

(i) Diligently inquire into all matters coming before them;

(ii) Find and present indictments truthfully and without malice, fear of reprisal or hope of reward; and

(iii) Keep secret matters occurring before the grand jury unless disclosure is directed or permitted by the court.

7-5-202. Charging of duties; powers.

(a) After the grand jury is impaneled and sworn, the district judge shall charge the jurors as to their duties particularly to the obligation of secrecy which their oaths impose, and give them any information the court deems proper concerning any offenses known to the court and likely to come before the grand jury.

(b) The grand jury may:

(i) Inquire into any crimes committed or triable within the county and present them to the court by indictment; and

(ii) Investigate and report to the court concerning the condition of the county jail and the treatment of prisoners.

7-5-203. Right of district attorney to appear before jury; presence of other persons during deliberations.

(a) The district attorney, or the deputy or assistant district attorney may appear before the grand jury for the purpose of:

(i) Giving information relative to any matter under inquiry;

(ii) Giving requested advice upon any legal matter; and

(iii) Interrogating witnesses.

(b) No person other than the grand jurors shall be present during the deliberations of the grand jury or when the jurors are voting.

7-5-204. Process for witnesses.

If requested by the grand jury or the district attorney, the clerk of the court in which the jury is impaneled shall issue subpoenas for the attendance of witnesses to testify before the grand jury.

7-5-205. Administration of oath or affirmation to witnesses.

Before any witness is examined by the grand jury, an oath or affirmation shall be administered to him by the foreman.

7-5-206. Proceedings upon refusal of witness to testify.

If a witness appearing before a grand jury refuses, without just cause shown, to testify or provide other information, the district attorney may take the witness before the court for an

order directing the witness to show cause why the witness should not be held in contempt. If after hearing the court finds that the refusal was without just cause, and if the witness continues to refuse to testify or produce evidence, the court may hold the witness in contempt subject to the punishment provided by W.S. 1-12-108(a)(ii).

7-5-207. Secrecy of indictments against persons not under control.

The district judge may direct that an indictment shall be kept secret until the defendant is in custody or has given bail, and in that event the clerk shall seal the indictment and no person shall disclose the finding of the indictment except when necessary for the issuance and execution of a warrant or summons.

7-5-208. Confidentiality.

(a) Disclosure of matters occurring before the grand jury, other than its deliberations and the vote of any juror, may be made to the district attorney for use in the performance of his duties. The district attorney may disclose so much of the grand jury's proceeding to law enforcement agencies as he deems essential to the public interest and effective law enforcement.

(b) Except as provided in subsection (a) of this section, a juror, attorney, interpreter, stenographer, operator of a recording device or any typist who transcribes recorded testimony may disclose matters occurring before the grand jury only when so directed by the court preliminarily to or in connection with a judicial proceeding or when permitted by the court at the request of the defendant upon a showing that a particularized need exists for a motion to dismiss the indictment because of matters occurring before the grand jury.

(c) No obligation of secrecy may be imposed upon any person except in accordance with this section and W.S. 7-5-207.

7-5-209. Presentation and filing of indictment.

Indictments found by the grand jury shall be presented by the foreman to the court in the presence of the jury and filed with the clerk.

ARTICLE 3
STATE GRAND JURY

7-5-301. Petition for impaneling; determination by district judge.

If the attorney general or the governor deems it to be in the public interest to convene a grand jury which shall have jurisdiction extending beyond the boundaries of any single county, he may petition the judge of any district court for an order in accordance with the provisions of W.S. 7-5-301 through 7-5-309. The district judge may, for good cause shown, order the impaneling of a state grand jury which shall have statewide jurisdiction. In making his determination as to the need for impaneling a state grand jury, the judge shall require a showing that the matter cannot be effectively handled by a county grand jury impaneled pursuant to W.S. 7-5-101 through 7-5-209.

7-5-302. Powers and duties; applicable law; procedural rules.

A state grand jury shall have the same powers and duties and shall function in the same manner as a county grand jury, except for the provisions of W.S. 7-5-202(b)(ii), and except that its jurisdiction shall extend throughout the state. The law applicable to county grand juries shall apply to state grand juries except when the law is inconsistent with the provisions of W.S. 7-5-301 through 7-5-309. The supreme court may promulgate any rules it deems necessary to govern the procedures of state grand juries.

7-5-303. Selection and term of members.

The district judge granting the petition to convene a state grand jury shall impanel the state grand jury from a base jury list for the state compiled by the supreme court. The district court judge may specify that the base jury list for the state not include the names of jurors from every county within the state to limit juror expense and inconvenience of travel. A state grand jury shall be composed of twelve (12) persons, but not more than one-half (1/2) of the members of the state grand jury shall be residents of any one (1) county. The members of the state grand jury shall be selected by the court in the same manner as jurors of county grand juries and shall serve for one (1) year following selection unless discharged sooner by the district judge.

7-5-304. Summoning of jurors.

Jurors shall be summoned and selected in the same manner as jurors of county grand juries.

7-5-305. Judicial supervision.

Judicial supervision of the state grand jury shall be maintained by the district judge who issued the order impaneling the grand jury, and all indictments, reports and other formal returns of any kind made by the grand jury shall be returned to that judge.

7-5-306. Presentation of evidence.

The presentation of the evidence shall be made to the state grand jury by the attorney general or his designee. In the event the office of the attorney general is under investigation, the presentation of evidence shall be made to the state grand jury by an attorney appointed by the Wyoming supreme court.

7-5-307. Return of indictment; designation of venue; consolidation of indictments.

Any indictment by the state grand jury shall be returned to the district judge without any designation of venue. Thereupon, the judge shall, by order, designate the county of venue for the purpose of trial. The judge may order the consolidation of an indictment returned by a county grand jury with an indictment returned by a state grand jury and fix venue for trial.

7-5-308. Investigative powers; secrecy of proceedings.

(a) In addition to its powers of indictment, a statewide grand jury impaneled under W.S. 7-5-301 through 7-5-309 may, at the request of the attorney general, cause an investigation to be made into the extent of organized criminal activity within the state and return a report to the attorney general.

(b) Disclosure of matters occurring before the grand jury, other than its deliberations and the vote of any juror, may be made to the attorney general and to any district attorney for use in the performance of their duties. Those officials may disclose so much of the grand jury's proceedings to law enforcement agencies as they deem essential to the public interest and effective law enforcement.

(c) Except as provided in subsection (b) of this section, a juror, attorney, interpreter, stenographer, operator of a recording device or any typist who transcribes recorded

testimony may disclose matters occurring before the grand jury only when so directed by the court preliminarily to or in connection with a judicial proceeding or when permitted by the court at the request of the defendant upon a showing that a particularized need exists for a motion to dismiss the indictment because of matters occurring before the grand jury.

(d) No obligation of secrecy may be imposed upon any person except in accordance with this section. The court may direct that an indictment shall be kept secret until the defendant is in custody or has given bail, and in that event, the clerk shall seal the indictment and no person shall disclose the finding of the indictment except when necessary for the issuance and execution of a warrant or summons.

7-5-309. Costs and expenses.

The costs and expenses incurred in impaneling a state grand jury and in the performance of its functions and duties shall be paid by the state out of funds appropriated to the attorney general for that purpose.

CHAPTER 6
PUBLIC DEFENDER

7-6-101. Short title.

This act shall be known and may be cited as the "Public Defender Act".

7-6-102. Definitions.

(a) As used in this act:

(i) Repealed by Laws 1989, ch. 121, § 2.

(ii) Repealed by Laws 1989, ch. 121, § 2.

(iii) "Expenses", when used with reference to representation under this act, include the expenses of investigation, other preparation and trial;

(iv) "Needy person" means a person who at the time of his need of an attorney is unable to provide for the full payment of an attorney and all other necessary expenses of representation without prejudicing his financial ability to provide basic economic necessities for himself or his family

considering the person's available funds and the anticipated cost of the attorney.

(v) "Serious crime" means:

(A) Any felony or misdemeanor under the laws of the state of Wyoming for which incarceration as a punishment is a practical possibility, provided, however, that counsel need not be appointed for a misdemeanor if the judge, at the initial appearance, determines and states on the record that he will not sentence the defendant to any period of imprisonment if the defendant is convicted of the misdemeanor; and

(B) Any misdemeanor offense charged under W.S. 6-2-501, 6-2-510 or 6-2-511, or any other provision, a conviction of which is a "misdemeanor crime of domestic violence" as defined in 18 U.S.C. § 921(a)(33), and which may therefore result in the disqualification of the person to possess firearms pursuant to the provisions of 18 U.S.C. §§ 922(g)(9) and 924(a)(2), regardless of the determination of the judge that he intends not to impose a term of incarceration for the state offense.

(vi) "This act" means W.S. 7-6-101 through 7-6-114.

7-6-103. Creation of office of state public defender; appointment of state public defender and assistants; duties; removal.

(a) There is created the office of the state public defender. The office of the state public defender shall be deemed a state agency for budgeting purposes pursuant to W.S. 9-2-1001 through 9-2-1026.

(b) The state public defender shall be appointed by and shall serve at the pleasure of the governor.

(c) The state public defender shall:

(i) Be a member in good standing of the Wyoming state bar;

(ii) Have had experience in defense or prosecution of persons accused of crime in this state;

(iii) Be compensated as determined by the Wyoming personnel division;

(iv) Devote full time to the performance of his duties;

(v) Administer the public defender program of the state;

(vi) Promulgate rules and regulations establishing a standard fee schedule for services provided by attorneys appointed pursuant to W.S. 7-6-109 and post the schedule on the agency's website;

(vii) Repealed By Laws 2013, Ch. 87, § 2.

(viii) Repealed by Laws 2020, ch. 122, § 3.

(d) The state public defender shall not engage in private practice except to complete business pending at the time of his appointment.

(e) Any assistant public defender may serve in another judicial district on a case by case basis at the request of the state public defender.

(f) The governor may appoint full or part-time assistant public defenders in each judicial district with the advice of the state public defender, the district judge of the district and the boards of county commissioners in the district. In appointing assistant public defenders the governor shall consider the recommendations submitted to him, the demand for legal services, the criminal case load statistics, the population, the geographical characteristics and any other relevant factors.

(g) Each assistant public defender shall:

(i) Serve at the pleasure of the state public defender;

(ii) Be a member in good standing of the Wyoming state bar. The governor may remove any assistant public defender as provided in W.S. 9-1-202;

(iii) Be compensated as determined by the Wyoming personnel division, or by the state public defender if appointed under a purchase order contract; and

(iv) Devote full time to the performance of his duties when directed by the state public defender.

(h) A full time assistant public defender shall not engage in private practice except to complete business pending at the time of his appointment.

(j) The state public defender may act as his own attorney or may be represented by the attorney general in any actions, suits or claims in which the office of the state public defender or the state public defender himself is a party.

(k) Notwithstanding any other provision of law to the contrary, any attorney providing services for the office of the state public defender in the defense of a criminal case shall, for matters arising out of such services, be considered a state employee for purposes of coverage and representation under the Wyoming Governmental Claims Act, W.S. 1-39-101 through 1-39-120, and the state self-insurance program, W.S. 1-41-101 through 1-41-111.

7-6-104. Representation of needy persons.

(a) The public defender shall represent as counsel any needy person who is under arrest for or formally charged with having committed a serious crime if:

(i) The defendant requests counsel; or

(ii) The court, on its own motion or otherwise, orders appointment of counsel and the defendant does not affirmatively waive or reject, on the record, the opportunity to be represented by legal counsel in the proceeding.

(b) Appointed counsel, services and facilities necessary for representation, and court costs shall be provided at public expense to the extent that the person, at the time the court determines need, is unable to provide for their payment.

(c) A needy person who is entitled to be represented by an attorney under subsection (a) of this section is entitled:

(i) To be represented by the public defender in a proceeding for revocation of probation when it is determined by the court to be statutorily or constitutionally required;

(ii) To be represented in any appeal to a Wyoming court, and in cases in which the death penalty has been imposed or in such other cases as the state public defender deems appropriate, in a writ of certiorari to the United States supreme court, and in proceedings under W.S. 7-14-101 through 7-14-108;

(iii) Repealed by Laws 1989, ch. 121, § 2.

(iv) Repealed By Laws 1999, ch. 95, § 2.

(v) To be represented by the public defender when requested by a fugitive in a proceeding for extradition for the limited purpose provided in W.S. 7-3-210 or for fugitive juveniles under the Interstate Compact on Juveniles, W.S. 14-6-102, when requested by the juvenile or the court;

(vi) To be represented by counsel at every stage of the proceedings, from the time of the initial appointment by the court until the entry of final judgment, at which time the representation shall end, unless the court appoints counsel for purposes of appeal, correction or modification of sentence;

(vii) To be represented by the public defender in a motion brought in accordance with the provisions of the Post-Conviction DNA Testing Act or in accordance with W.S. 7-12-405.

(d) A needy person's right to a benefit under subsection (a) or (c) of this section is not affected by his having provided a similar benefit at his own expense, or by his having waived it, at an earlier stage.

7-6-105. Advisement of rights; appointment of attorney.

(a) A needy person who is being interrogated by law enforcement personnel for a serious crime, or who is a probationer or parolee, shall be informed of his right to be represented by an attorney at public expense. If the person being interrogated does not have an attorney and wishes to have the services of an attorney, he shall be provided the opportunity to contact the nearest public defender.

(b) At the person's initial appearance the court shall advise any defendant who is a needy person of his right to be represented by an attorney at public expense. The court shall further explain to the needy person the possibility that he may

be ordered to reimburse the state for the costs associated with his legal representation. If the person charged does not have an attorney and wishes one, the court shall notify an available public defender for the judicial district or shall appoint an attorney to represent the needy person if no public defender is available.

7-6-106. Determination of need; reimbursement for services.

(a) The determination of whether a person covered by W.S. 7-6-104 is a needy person shall be deferred until his first appearance in court or in a suit for payment or reimbursement under W.S. 7-6-108, whichever occurs earlier. Thereafter, the court shall determine, with respect to each proceeding, whether he is a needy person. For purposes of this section, an appeal, probation revocation or proceeding to correct or modify a sentence is a separate proceeding. The determination of need shall be based on a separate application submitted at the time of each proceeding.

(b) In determining whether a person is a needy person and in determining the extent of his inability to pay, and, in the case of an unemancipated minor, the inability to pay of his custodial parent or another person who has a legal obligation of support, the court shall consider the standards set forth in subsections (f) through (h) of this section and Rule 44(d), Wyoming Rules of Criminal Procedure. Release on bail does not necessarily prevent a person from being determined to be needy. In each case the person, subject to the penalties for perjury, shall certify in writing, or by other record, the material factors relating to his ability to pay as the court prescribes.

(c) In every case in which a person has received services under W.S. 7-6-104, the presiding judge shall determine whether the person or, in the case of an unemancipated minor, his custodial parent or any other person who has a legal obligation of support, is able to provide any funds towards payment of part or all of the cost associated with such services. If the person or, in the case of an unemancipated minor, his custodial parent or any other person who has a legal obligation of support, is not able to provide any funds towards payment of costs, the court shall enter a specific finding on the record. If the court determines the person or, in the case of an unemancipated minor, his custodial parent or any other person who has a legal obligation of support, is able to provide any amount as reimbursement, the court shall order the person or, in the case

of an unemancipated minor, his custodial parent or any other person who has a legal obligation of support, to reimburse the state for all or part of the costs of the services provided or shall state on the record the reasons why an order for reimbursement was not entered. Where a person is initially provided with counsel pursuant to W.S. 7-6-105(a), but subsequently retains private counsel, the court may order the person to reimburse the state for the services already provided. All reimbursements under this act shall be made through the clerk of court.

(d) The state public defender shall report in the agency's annual report concerning:

(i) The number of cases by court in which an attorney was appointed to represent a person at public expense under this act during the preceding calendar quarter;

(ii) For each case in which an attorney was appointed, whether the court ordered reimbursement under this section or, if reimbursement was not ordered, whether the court complied with subsection (c) of this section;

(iii) Repealed by Laws 2020, ch. 122, § 3.

(e) If the court orders release on bail pending trial or appeal, probation before sentence, suspended sentence or probation, the court shall order the needy person as a condition of bail, sentence or probation to repay the state for expenses and services provided by appointed attorneys pursuant to the state public defender's standard fee schedule if the court determines the defendant has an ability to pay or that a reasonable probability exists that the defendant will have an ability to pay.

(f) The following income standards shall be used to determine whether a person is needy for purposes of this article:

(i) A person whose annual gross income is less than one hundred twenty-five percent (125%) of the current federally established poverty level for his immediate family unit is needy;

(ii) A person whose annual gross income is between one hundred twenty-five percent (125%) and two hundred eighteen

percent (218%) of the current federally established poverty level for his immediate family unit may be deemed needy;

(iii) A person whose annual gross income is greater than two hundred eighteen percent (218%) of the current federally established poverty level for his immediate family unit shall not be deemed needy under this article.

(g) Notwithstanding subsection (f) of this section, a person may be deemed needy if the person is charged with a felony and the court, in its discretion, determines on the record after consideration of the standards set forth in Rule 44(d), Wyoming Rules of Criminal Procedure that extraordinary circumstances exist such that the person is entitled to representation.

(h) Notwithstanding subsection (f) of this section, a person shall be presumed needy if:

(i) He receives at least one (1) of the following types of public assistance:

(A) Temporary Assistance for Needy Families (TANF);

(B) Emergency Aid to Elderly, Disabled and Children (EAEDC);

(C) Poverty related veteran's benefits;

(D) Supplemental nutrition assistance program;

(E) Medicaid;

(F) Supplemental Security Income (SSI).

(ii) He resides in a public mental health facility and has no available funds or liquid assets;

(iii) He is serving a sentence in a state correctional institution and has no available funds or liquid assets; or

(iv) He is in custody in a county jail and has no available funds or liquid assets.

7-6-107. Waiver of rights.

A person who has been advised of his rights under W.S. 7-6-105 may waive any right provided by this act if at the time of or after waiver, the court finds that the person has acted with full awareness of his rights and of the consequences of a waiver and if the waiver is otherwise made according to law. Before making its findings, the court shall consider such factors as the person's age, education, familiarity with the English language and the complexity of the crime involved. A person who knowingly and voluntarily waives his right to counsel and who elects to represent himself shall not be entitled to standby counsel under this act.

7-6-108. Recovery of payment.

(a) Within six (6) years after the date the services were rendered, the attorney general may sue on behalf of the state to recover payment or reimbursement from each person who has received legal assistance or other benefits under this act or, in the case of an unemancipated minor, from his custodial parent or any other person who has a legal obligation of support.

(b) Amounts recovered under this act shall be paid into the state general fund.

7-6-109. Appointment of outside attorney.

(a) Nothing in this act shall prevent a court on its own motion or upon application by the state public defender or by the individual defendant, from appointing an attorney other than the public defender to represent the defendant or to assist in the representation of the defendant at any stage of the proceedings or on appeal.

(b) If a court assigns an attorney to represent a needy person, it may recommend a reasonable rate of compensation for his services and shall determine the direct expenses for which he should be reimbursed. The state public defender shall consider the court's recommendation and the customary compensation as prescribed by the standard fee schedule promulgated pursuant to W.S. 7-6-103(c)(vi), and shall pay the appointed attorney for his services when the case for which he was appointed is concluded.

(c) An attorney appointed under subsection (b) of this section shall be compensated for his services with regard to the complexity of the issues, the time involved, prevailing local

fees of attorneys, the amount reasonably necessary to provide a defense as is required by constitutional process and other relevant considerations as determined by the court.

(d) If a defendant initially retains counsel and then requests the provision of counsel or any other defense services, including but not limited to mental evaluations, expert witnesses and witness travel expenses, the court shall make a determination whether the defendant is a "needy person" under this act, subject to the following:

(i) The procedures set forth in W.S. 7-6-106 shall be followed;

(ii) The court shall make the findings required by W.S. 7-6-106 and rule 44 of the Wyoming Rules of Criminal Procedure;

(iii) The defendant shall complete an affidavit or otherwise disclose on the record his entire financial situation, including the amount he has already paid to retain defense counsel, the source of those funds and whether additional funds are available to him through any means;

(iv) The defendant shall disclose the disposition of any retainer and any amounts remaining; and

(v) The state public defender shall be served by the defendant's retained counsel with a copy of any such request and shall be heard by the court prior to any decision on the request.

7-6-110. Use of state or private facilities.

(a) The public defender or an appointed defending attorney is entitled to use the same state facilities for the evaluation of evidence as are available to the prosecuting attorney. If it appears the use of state facilities is unavailable or inappropriate, the court may authorize the use of private facilities to be paid for by the state public defender.

(b) When the public defender or an appointed defending attorney requests service of process from the sheriff, no fees shall be charged for such service.

7-6-111. Office space.

The county commissioners of each county shall provide suitable office space and utility services, other than telephone service, for the use of the state public defender and his assistants. If suitable office space for all assistant public defenders cannot be provided, the county commissioners shall provide a monthly stipend to all assistants housed in private facilities.

7-6-112. Applicability of provisions.

(a) This act does not apply to:

(i) Matters arising out of an action pending in the juvenile courts of this state unless it is in a juvenile delinquency proceeding or a child in need of supervision proceeding;

(ii) Representation of an individual in proceedings for hospitalization of mentally ill persons under W.S. 25-10-101 through 25-10-127;

(iii) Representation of a person charged in municipal court with violation of a municipal ordinance;

(iv) Representation of a person in a federal court, except pursuant to W.S. 7-6-104(c)(ii);

(v) Repealed by Laws 2020, ch. 122, § 3.

7-6-113. Funding.

(a) The total state and federal funding of the public defender program shall be eighty-five percent (85%) of the state public defender budget.

(b) Each county shall appropriate funds to supplement the state public defender budget in accordance with an equitable formula determined by the state public defender and the budget division of the department of administration and information in cooperation with the legislative service office, taking into account the following factors:

(i) The population of each county;

(ii) The assessed valuation of each county; and

(iii) The serious crime case load of each county.

(c) The total amount of money collected from the counties shall equal fifteen percent (15%) of the state public defender budget. The state public defender shall notify each county of its proportional share and shall by June 30 of each fiscal year invoice the county for its proportionate share. In the event a county does not make payments within ninety (90) days, the state treasurer may deduct the amount from sales tax revenues due to the county from the state and shall credit the amount to the general fund.

(d) Repealed by Laws 2020, ch. 122, § 3.

7-6-114. Other legal protections or sanctions.

The protections provided by this act do not exclude any protection or sanction that the law otherwise provides.

CHAPTER 7
SEARCH WARRANTS

7-7-101. Authority to issue; grounds.

(a) Any district judge, district court commissioner, circuit judge or magistrate authorized pursuant to W.S. 5-9-208(a), (b) or (c)(xv) or 5-9-212(a)(ix) may issue a search warrant to search for and seize any property:

(i) Stolen or embezzled in violation of law;

(ii) Designed or intended for use or which is or has been used as the means of committing a criminal offense;

(iii) Possessed, controlled, or designed or intended for use or which is or has been used in violation of any law; or

(iv) When the property or things to be seized consist of any item, or constitute any evidence which tends to show a crime has been committed, or tends to show that a particular person has committed a crime.

7-7-102. Procedures governed by rules.

Except as provided by W.S. 7-7-105, the Wyoming Rules of Criminal Procedure shall govern procedures relating to the issuance, form, execution and return of search warrants and procedures relating to motions to return unlawfully seized property and to suppress evidence.

7-7-103. Disposition of property.

(a) Except as otherwise provided by law, property seized pursuant to a search warrant shall be disposed of as follows:

(i) If the defendant is convicted:

(A) Property which was stolen or embezzled shall be returned to the owner;

(B) Other property shall be destroyed or otherwise disposed of as directed by the court.

(ii) If the criminal charges against the defendant are dismissed or he is acquitted, the property shall be returned to the owner or otherwise disposed of as directed by the court.

7-7-104. Authority of officer to break open building in execution of warrant.

Except as otherwise specifically provided by law, an officer executing a search warrant may break a door or window of any building described in the warrant if he is not admitted after he has announced his authority and purpose.

7-7-105. Applicability of more specific provisions.

Notwithstanding any provision of W.S. 7-7-101 through 7-7-104, specific procedures contained in another statute governing search and seizure, the issuance and execution of search warrants or the disposition to be made of seized property shall govern in those circumstances to which the more specific statute applies.

CHAPTER 8
ARREST AND PRELIMINARY HEARING

7-8-101. Arrest by private person.

(a) A person who is not a peace officer may arrest another for:

(i) A felony committed in his presence;

(ii) A felony which has been committed, even though not in his presence, if he has probable cause to believe the person to be arrested committed it; or

(iii) The following misdemeanors committed in his presence:

(A) A misdemeanor theft offense defined by W.S. 6-3-402; or

(B) A misdemeanor property destruction offense defined by W.S. 6-3-201.

7-8-102. Issuance and execution of warrant or summons on indictment; procedures governed by rules.

(a) A warrant or summons may be issued on an indictment found in any county.

(b) The warrant may be executed or the summons may be served at any place within the state.

(c) Procedures relating to the issuance, form, execution or service and the return of the warrant or summons shall be governed by the Wyoming Rules of Criminal Procedure.

7-8-103. Issuance and execution of warrant or summons on information or complaint; procedures governed by rules.

(a) A warrant or summons issued by any circuit court based upon a complaint or information charging any criminal offense may be executed or served at any place within the jurisdiction of the state of Wyoming.

(b) Procedures relating to the issuance, form, execution or service and the return of the warrant or summons shall be governed by rules promulgated by the supreme court of Wyoming.

7-8-104. Authority of officer to break open building in execution of warrant.

In executing a warrant for the arrest of a person charged with an offense, a peace officer may break open a door or window of any building in which the person to be arrested is or is reasonably believed to be, if the officer is not admitted after he has announced his authority and purpose.

7-8-105. Right to preliminary hearing.

In all cases triable in district court, except upon indictment, the defendant is entitled to a preliminary hearing.

7-8-106. Renumbered as 7-1-109 by Laws 1993, ch. 173, § 1.

CHAPTER 9
VICTIM RESTITUTION

7-9-101. Definitions.

(a) As used in this chapter:

(i) "Criminal activity" means any crime for which there is a plea of guilty, nolo contendere or verdict of guilty upon which a judgment of conviction may be rendered and includes any other crime which is admitted by the defendant, whether or not prosecuted. In the case of restitution ordered under W.S. 7-13-301, "criminal activity" also includes a crime charged against the defendant;

(ii) "Long-term physical health care restitution order" means an order entered pursuant to W.S. 7-9-113 through 7-9-115;

(iii) "Pecuniary damage" means all damages which a victim could recover against the defendant in a civil action arising out of the same facts or event, including damages for wrongful death. It does not include punitive damages and damages for pain, suffering, mental anguish and loss of consortium;

(iv) "Restitution" means full or partial payment of pecuniary damage to a victim;

(v) "Victim" means a person who has suffered pecuniary damage as a result of a defendant's criminal activities. An insurer which paid any part of a victim's pecuniary damages shall be regarded as the victim only if the insurer has no right of subrogation and the insured has no duty to pay the proceeds of restitution to the insurer.

7-9-102. Order to pay upon conviction.

In addition to any other punishment prescribed by law the court shall, upon conviction for any misdemeanor or felony, order a defendant to pay restitution to each victim as determined under

W.S. 7-9-103 and 7-9-114 unless the court specifically finds that the defendant has no ability to pay and that no reasonable probability exists that the defendant will have an ability to pay.

7-9-103. Determination of amount owed; execution.

(a) As part of the sentencing process including deferred prosecutions under W.S. 7-13-301, in any misdemeanor or felony case, the prosecuting attorney shall present to the court any claim for restitution submitted by any victim.

(b) In every case in which a claim for restitution is submitted, the court shall fix a reasonable amount as restitution owed to each victim for actual pecuniary damage resulting from the defendant's criminal activity, and shall include its determination of the pecuniary damage as a special finding in the judgment of conviction or in the order placing the defendant on probation under W.S. 7-13-301. In determining the amount of restitution, the court shall consider and include as a special finding, each victim's reasonably foreseeable actual pecuniary damage that will result in the future as a result of the defendant's criminal activity. A long-term physical health care restitution order shall be entered as provided in W.S. 7-9-113 through 7-9-115.

(c) The court shall order the defendant to pay all or part of the restitution claimed or shall state on the record specific reasons why an order for restitution was not entered. If the court determines that the defendant has no ability to pay and that no reasonable probability exists that the defendant will have an ability to pay in the future, the court shall enter specific findings in the record supporting its determination.

(d) Any order for restitution under this chapter constitutes a judgment by operation of law on the date it is entered. To satisfy the judgment, the clerk, upon request of the victim, the division of victim services or the district attorney, shall issue execution in the same manner as in a civil action.

(e) The court's determination of the amount of restitution owed under this section is not admissible as evidence in any civil action.

(f) The defendant shall be given credit against his restitution obligation for payments made to the victim by the

defendant's insurer for injuries arising out of the same facts or event.

7-9-104. Preparation of plan; contents.

(a) In any case in which the court has ordered restitution under W.S. 7-9-102, 7-9-113 or 7-13-301, if the sentencing court orders suspended imposition of sentence, suspended sentence or probation, the court shall require that the defendant in cooperation with the probation and parole officer assigned to the defendant, or in the case of unsupervised probation any probation and parole officer or any other person the court directs, promptly prepare a plan of restitution including the name and address of each victim, the amount of restitution determined to be owed to each victim pursuant to W.S. 7-9-103 or 7-9-114 and a schedule of restitution payments. If the defendant is presently unable to make any restitution but there is a reasonable possibility that the defendant may be able to do so at some time during his probation period, the plan of restitution shall also state the conditions under which or the event after which the defendant shall make restitution. In structuring a plan for reimbursement under this section, victim restitution shall be paid in the following order:

(i) Pecuniary damages suffered by the victim which have not been paid by insurance or from the crime victim's compensation account;

(ii) Payment of other amounts owed by the defendant arising from the case.

7-9-105. Submission of plan to court; approval or modification.

The defendant's plan of restitution and the comments of the probation and parole officer or any other person directed by the court to assist in the preparation of the restitution plan shall be submitted promptly to the court. The court shall promptly enter an order approving the plan or modifying it and providing for restitution payments to the extent that the defendant is or may become reasonably able to make restitution, taking into account the factors enumerated in W.S. 7-9-106. The court may modify the plan at any time upon the defendant's request, upon the court's own motion and, for those cases within the provisions of W.S. 7-9-113 through 7-9-115, upon the motion of the victim.

7-9-106. Factors considered by probation and parole officer, and by court.

(a) The probation and parole officer or other person directed by the court when assisting the defendant in preparing the plan of restitution, and the court before approving or modifying the plan of restitution, shall consider:

(i) The number of victims;

(ii) The pecuniary damages of each victim including, for those cases within the provisions of W.S. 7-9-113 through 7-9-115, the long-term physical health care cost of the victim;

(iii) The defendant's:

(A) Physical and mental health and condition;

(B) Age;

(C) Education;

(D) Employment circumstances;

(E) Potential for employment and vocational training;

(F) Family circumstances; and

(G) Financial condition and whether the defendant has an ability to pay or whether a reasonable probability exists that the defendant will have an ability to pay.

(iv) Whether compensation has been paid to any victim under the Crime Victims Compensation Act;

(v) What plan of restitution will most effectively aid the rehabilitation of the defendant; and

(vi) Other appropriate factors.

7-9-107. Notice to victims.

(a) The probation and parole officer or other person directed by the court to assist in preparation of the restitution plan shall attempt to determine the name and address

of each victim and the amount of his pecuniary damages and may rely on a victim's impact statement made pursuant to W.S. 7-21-101 through 7-21-103.

(b) The clerk of the court shall mail to each known victim a copy of the court's order approving or modifying the plan of restitution.

7-9-108. Compliance with plan as condition of probation or suspension; payments to clerk.

(a) Compliance with the plan of restitution as approved or modified by the court shall be a condition of the defendant's probation or suspension.

(b) Restitution payments by the defendant shall be made payable to the office of the clerk in a form acceptable to the clerk.

(c) Any restitution payment mailed to the last known address of the victim and returned to the clerk without a forwarding address shall be held by the clerk for a period of one (1) year following the date of receipt of the returned payment. A victim who fails to claim the returned payment or to provide a forwarding address within the one (1) year period forfeits his right to the payment and the clerk shall forward the amount of payment to the victim services division within the office of the attorney general for deposit in the account established under W.S. 1-40-114.

7-9-109. Failure to comply; modification or extension of plan.

Failure of the defendant to comply with W.S. 7-9-104 or to comply with the plan of restitution as approved or modified by the court is a violation of the conditions of probation. If the probation period has expired, the restitution order may be enforced by either civil or criminal contempt proceedings. Criminal contempt under this section is punishable by imprisonment for not more than one (1) year. The court may modify the plan of restitution or extend the period of time for restitution, but, except for those cases falling within the provisions of W.S. 7-9-113 through 7-9-115, the court may not extend the period of time for restitution beyond ten (10) years following the date of the defendant's discharge from sentence or expiration of probation under W.S. 7-13-301.

7-9-110. Civil action.

(a) Proceedings, orders and judgments under W.S. 7-9-101 through 7-9-115 shall not estop, limit or impair the rights of victims to sue and recover damages from the defendant in a separate civil action. Any restitution payment by the defendant to a victim shall be set off against any judgment in favor of the victim, however, in a civil action arising out of the same facts or event.

(b) The fact that restitution was required or made shall not be admissible as evidence in a civil action unless offered by the defendant.

7-9-111. Limitations on duty of prosecutor; victim's remedy.

Except as provided by W.S. 7-9-103(a), the prosecuting attorney has no obligation to investigate alleged pecuniary damages or to petition the court for restitution on behalf of a victim. In the event that the victim is not satisfied with the restitution plan approved or modified by the court, the victim's sole and exclusive remedy is a civil action.

7-9-112. Check fraud.

Notwithstanding any other provision of this chapter, the sentencing court may require any person convicted of check fraud to make restitution in an amount not to exceed twice the amount of the dishonored check in addition to any other punishment imposed under W.S. 6-3-702.

7-9-113. Restitution for long-term care.

(a) In addition to any other punishment prescribed by law and any restitution ordered pursuant to W.S. 7-9-102 which did not include long-term physical health care costs, the court may, upon conviction of any misdemeanor or felony, order a defendant to pay restitution to a victim in accordance with the provisions of W.S. 7-9-114 if the victim has suffered physical injury as a result of the crime which is reasonably probable to require or has required long-term physical health care for more than three (3) months.

(b) As used in W.S. 7-9-113 through 7-9-115 "long-term physical health care" includes mental health care.

7-9-114. Determination of long-term restitution; time for order; enforcement.

(a) In determining the amount of restitution to be ordered for long-term physical health care, the court shall consider the factors stated in W.S. 7-9-106 together with an estimated monthly cost of long-term physical health care of the victim provided by the victim or his representative. The victim's estimate of long-term physical health care costs may be made as part of a victim impact statement under W.S. 7-21-103 or made separately. The court shall enter the long-term physical health care restitution order at the time of sentencing. An order of restitution made pursuant to this section shall fix a monthly amount to be paid by the defendant for as long as long-term physical health care of the victim is required as a result of the crime. The order may exceed the length of any sentence imposed upon the defendant for the criminal activity. The court shall include as a special finding in the judgment of conviction its determination of the monthly cost of long-term physical health care.

(b) Restitution ordered under this section shall be paid as provided in W.S. 7-9-108. The restitution order shall be a civil judgment against the defendant and may be enforced by any means provided for enforcing other restitution orders and civil judgments.

7-9-115. Modification of order.

After a long-term physical health care restitution order has been entered, the court may from time to time, on the petition of either the defendant or the victim, or upon its own motion, modify the order as to the amount of monthly payments. Any modification of the order shall only be based upon a substantial change of circumstances relating to the cost of long-term physical health care or the financial condition of either the defendant or the victim. The petition shall be filed as part of the original criminal docket.

CHAPTER 10
BAIL

7-10-101. Right of defendant.

(a) A person arrested for an offense not punishable by death may be admitted to bail.

(b) A person arrested for an offense punishable by death may be admitted to bail at the discretion of the authorized judicial officer as defined by W.S. 7-10-104, except the defendant shall not be admitted to bail if the proof is evident or the presumption great in the case.

(c) During the pendency of an appeal in a bailable case, the judge of the court having jurisdiction may admit the defendant to bail in any sum he deems proper. The judge allowing bail may at any time revoke or amend the order admitting the defendant to bail.

7-10-102. Matters governed by rules.

The rules promulgated by the Wyoming supreme court shall govern in all matters relating to the terms, amount and conditions of bail, justification of sureties and procedures for forfeiture, enforcement and exoneration upon breach or default of the conditions of bail.

7-10-103. Continuation for defendant bound over to district court.

An order admitting to bail a defendant who is subsequently bound over to answer for a criminal offense in district court shall continue unless amended or revoked by the district court. The order of the court of limited jurisdiction admitting the defendant to bail, together with any cash, appearance bond or other security, shall be transmitted to the clerk of the district court and made a part of the record.

7-10-104. Authorized judicial officers.

(a) A person charged with the commission of any bailable offense may be admitted to bail by:

(i) A justice of the supreme court;

(ii) A district judge or district court commissioner of the district in which the person is charged; or

(iii) A circuit judge, or magistrate of the county in which the person is charged.

(iv) Repealed By Laws 2004, Chapter 42, § 2.

7-10-105. Disposition of forfeited proceeds.

Any proceeds recovered as a result of the forfeiture of bail in any criminal case shall be paid into the county treasury to the credit of the public school fund of the county in which the defendant was admitted to bail.

7-10-106. Technical defects.

In any proceeding to enforce or forfeit bail it shall be no defense that there was a failure by the court to note or record the default nor that there was a defect in the form of the appearance bond unless the defect misled the defendant to his prejudice.

CHAPTER 11
TRIAL AND MATTERS INCIDENT THERETO

ARTICLE 1
SELECTION AND CHALLENGES OF JURIES

7-11-101. Impaneling in criminal cases.

Trial juries for criminal actions in district courts and in circuit courts are formed in the same manner as trial juries in civil actions.

7-11-102. Trial of accused.

In all criminal cases the jury summoned and impaneled according to the laws relating to the summoning or impaneling of juries in other cases, shall try the accused.

7-11-103. Peremptory challenges.

(a) The defendant may challenge peremptorily, in capital cases, twelve (12) jurors, in other felonies eight (8) jurors, and in misdemeanors four (4) jurors. The prosecution may challenge peremptorily, in capital cases, twelve (12) jurors, in other felonies eight (8) jurors, and in misdemeanors four (4) jurors. The number of peremptory challenges allowed to the prosecution shall be multiplied by the number of defendants on trial in each case. Each defendant shall be allowed separate peremptory challenges.

(b) All challenges made under subsection (a) of this section shall be secret challenges.

7-11-104. Trial of challenges for cause.

Both the defense and the prosecution may challenge jurors for cause prior to the jury being sworn. Challenges for cause shall be tried by the court.

7-11-105. General grounds for challenging jurors.

(a) The following is good cause for challenge to any person called as a juror in a criminal case:

(i) That he was a member of the grand jury which found the indictment;

(ii) That he has formed or expressed an opinion as to the guilt or innocence of the accused, or is biased or prejudiced for or against the accused;

(iii) In a case in which the death penalty may be imposed, he states that his views on capital punishment would prevent or substantially impair performance of his duties as a juror in accordance with his oath or affirmation and the instructions of the court;

(iv) That he is a relation within the fifth degree to the person alleged to be injured, or attempted to be injured, by the offense charged or to the person on whose complaint the prosecution was instituted, or to the defendant;

(v) That he has served on a petit jury which was sworn in the same cause against the same defendant, and which jury either rendered a verdict which was set aside, or was discharged after hearing the evidence;

(vi) That he has served as a juror in a civil case brought against the defendant for the same act;

(vii) That he has been subpoenaed as a witness in the case.

(b) The same challenges for cause shall be allowed in criminal prosecutions that are allowed to parties in civil cases.

7-11-106. Opinion formed from news reports or rumors.

(a) It is not cause for challenge that a person called to act as a juror in a criminal case has formed or expressed an opinion as to the guilt or innocence of the accused from news media reports or rumor if:

(i) The prospective juror states that he can lay aside his impression or opinion and render a verdict based on the evidence presented in court; and

(ii) The court is satisfied, from the examination of the prospective juror or from other evidence, that he will render an impartial verdict according to the law and the evidence submitted to the jury at trial.

7-11-107. Oath or affirmation.

As soon as the jury is selected an oath or affirmation shall be administered to the jurors providing, in substance, that they and each of them will well and truly try the matter in issue between the state of Wyoming, plaintiff, and the named defendant, and render a true verdict according to the evidence.

ARTICLE 2
TRIAL

7-11-201. Order of proceedings.

(a) After the jury has been impaneled and sworn, the trial shall proceed in the following order:

(i) The counsel for the state shall state the case of the prosecution, and may briefly state the evidence by which he expects to sustain it;

(ii) The defendant or his counsel may then state his defense and may briefly state the evidence he expects to offer in support of it, or may wait until the evidence on the part of the state is closed;

(iii) The state shall first produce its evidence; the defendant will then produce his evidence;

(iv) The state will then be confined to rebutting evidence unless the court, for good reasons, in furtherance of justice, shall permit it to offer evidence in chief;

(v) When the evidence is concluded, either party may request instructions to the jury on the points of law, which shall be given or refused by the court. The instructions shall be reduced to writing;

(vi) Before the argument of the case is begun, the court shall immediately, and before proceeding with other business, charge the jury. The charge shall be reduced to writing by the court, if either party requests it. No charge or instruction provided for in this section, when written or given, shall be orally qualified, modified or explained to the jury by the court. All written charges and instructions, shall be taken by the jury in their retirement and returned with their verdict into court, and shall remain on file with the papers of the case;

(vii) When the evidence is concluded, and the charge given by the court, unless the case is submitted without argument, the counsel for the state shall commence, the defendant or his counsel follow, and the counsel for the state shall conclude the argument to the jury.

7-11-202. Presence of defendant.

Except as otherwise provided by this section, the defendant shall be present at the arraignment, at every stage of the trial, including the impaneling of the jury, and the return of the verdict and at the imposition of sentence. In prosecution for offenses not punishable by death, the defendant's voluntary absence after the trial has been commenced in his presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by counsel for all purposes. In prosecutions of all misdemeanor cases, the court, with the written consent of the defendant, may permit arraignment, plea, and imposition of sentence in a defendant's absence. The defendant's presence is not required at a reduction of sentence hearing.

7-11-203. Dismissal for unnecessary delay.

If there is unnecessary delay in presenting the charge to a grand jury or in filing an information against a defendant who has been held to answer to the district court, or if there is unnecessary delay in bringing a defendant to trial, the court may dismiss the indictment, information or complaint.

7-11-204. Applicability of civil procedure provisions and rules.

To the extent practicable and when not otherwise specifically provided, procedures relating to conduct of the jury, admonitions of the court and the manner of returning verdicts, shall be governed by the Wyoming Code of Civil Procedure and the Wyoming Rules of Civil Procedure.

7-11-205. Discharge of jury before verdict without prejudice.

(a) If a jury is discharged for any of the following reasons before reaching a verdict, the discharge shall be without prejudice to the prosecution:

(i) Sickness of a juror or other accident or calamity requiring discharge of the jury;

(ii) Failure of the jury to return a verdict; or

(iii) Dismissal of the proceeding due to a failure of the complaint, information or indictment to properly charge the offense.

7-11-206. Separation of jury.

(a) In the trial of any criminal case to a jury, the court may, except for capital cases allow the jurors to separate during the trial and after the case is submitted to them.

(b) In the trial of any capital case to the jury, the court may, with the consent of the defendant and the district attorney, allow the jurors to separate during the trial and after the case is submitted to them.

(c) If the jurors are permitted to separate, they shall be admonished by the court that they shall not discuss the case with anyone except while deliberating in the jury room, and are not to form or express an opinion except during their deliberations in the jury room.

ARTICLE 3
MENTAL ILLNESS OR DEFICIENCY

7-11-301. Definitions.

(a) As used in this act:

(i) "Designated examiner" means a licensed psychiatrist, or other physician with forensic training or a licensed psychologist with forensic training;

(ii) "Facility" means the Wyoming state hospital or other facility designated by the court which can adequately provide for the security, examination or treatment of the accused;

(iii) "Mental deficiency" means a defect attributable to intellectual disability, brain damage and cognitive disabilities;

(iv) "This act" means W.S. 7-11-301 through 7-11-307.

7-11-302. Trial or punishment of person lacking mental capacity.

(a) No person shall be tried, sentenced or punished for the commission of an offense while, as a result of mental illness or deficiency, he lacks the capacity, to:

(i) Comprehend his position;

(ii) Understand the nature and object of the proceedings against him;

(iii) Conduct his defense in a rational manner; and

(iv) Cooperate with his counsel to the end that any available defense may be interposed.

7-11-303. Examination of accused to determine fitness to proceed; reports; commitment; defenses and objections.

(a) If it appears at any stage of a criminal proceeding, by motion or upon the court's own motion, that there is reasonable cause to believe that the accused has a mental illness or deficiency making him unfit to proceed, all further proceedings shall be suspended.

(b) The court shall order an examination of the accused by a designated examiner. The order may include, but is not limited to, an examination of the accused at the Wyoming state hospital on an inpatient or outpatient basis, at a local mental health

center on an inpatient or outpatient basis, or at his place of detention. In selecting the examination site, the court may consider proximity to the court, availability of an examiner, and the necessity for security precautions. If the order provides for commitment of the accused to a designated facility, the commitment shall continue no longer than a thirty (30) day period for the study of the mental condition of the accused. The prosecuting attorney and counsel for the accused shall cooperate in providing the relevant information and materials to the designated examiner, and the court may order as necessary that relevant information be provided to the examiner.

(c) Written reports of the examination shall be filed with the clerk of court. The report shall include:

(i) Detailed findings;

(ii) An opinion as to whether the accused has a mental illness or deficiency, and its probable duration;

(iii) An opinion as to whether the accused, as a result of mental illness or deficiency, lacks capacity to comprehend his position, to understand the nature and object of the proceedings against him, to conduct his defense in a rational manner, and to cooperate with his counsel to the end that any available defense may be interposed;

(iv) Repealed By Laws 2009, Ch. 31, § 2.

(v) A recommendation as to whether the accused should be held in a designated facility for treatment pending determination by the court of the issue of mental fitness to proceed; and

(vi) A recommendation as to whether the accused, if found by the court to be mentally fit to proceed, should be detained in a designated facility pending further proceedings.

(d) The clerk of court shall deliver copies of the report to the district attorney and to the accused or his counsel. The report is not a public record or open to the public. After receiving a copy of the report, both the accused and the state may, upon written request and for good cause shown, obtain an order granting them an examination of the accused by a designated examiner of their own choosing. For each examination ordered, a report conforming to the requirements of subsection

(c) of this section shall be furnished to the court and the opposing party.

(e) If the initial report contains the recommendation that the accused should be held in a designated facility pending determination of the issue of mental fitness to proceed, the court may order that the accused be committed to or held in a designated facility pending determination of mental fitness to proceed. The court may order the involuntary administration of antipsychotic medications to a person accused of a serious crime as defined in W.S. 7-6-102(a)(v) to render the accused competent to stand trial, provided the court finds:

(i) There are important governmental interests at stake including, but not limited to:

(A) Bringing the accused to trial;

(B) Timely prosecution;

(C) Assuring the accused has a fair trial.

(ii) The involuntary administration of antipsychotic medications will significantly further the governmental interest and the administration of the medication is:

(A) Substantially likely to render the accused competent to stand trial; and

(B) Substantially unlikely to have side effects that will interfere significantly with the ability of the accused to assist counsel in conducting a trial defense, thereby rendering the trial unfair.

(iii) That any alternative and less intrusive treatments are unlikely to achieve substantially the same results; and

(iv) The administration pursuant to a prescription by a licensed psychiatrist of the antipsychotic medications is medically appropriate and is in the best medical interests of the accused in light of the accused's medical condition.

(f) If neither the state, nor the accused or his counsel contests the opinion referred to in paragraph (c)(iii) of this section relative to fitness to proceed, the court may make a determination and finding of record on this issue on the basis

of the report filed or the court may hold a hearing on its own motion. If the opinion relative to fitness to proceed is contested the court shall hold a hearing on the issue. The report or reports may be received in evidence at any hearing on the issue. The party contesting any opinion relative to fitness to proceed has the right to summon and cross-examine the persons who rendered the opinion and to offer evidence upon the issue.

(g) If the court determines that the accused is mentally fit to proceed, the court may order that the accused be held in confinement, be committed to a designated facility pending further proceedings, or be released on bail or other conditions. If the court determines that the accused lacks mental fitness to proceed, the proceedings against him shall be suspended and the court shall commit him to a designated facility to determine whether there is substantial probability that the accused will regain his fitness to proceed:

(i) The examiner shall provide a full report to the court, the prosecuting attorney and the accused or his counsel within ninety (90) days of arrival of the accused at the designated treating facility. If the examiner is unable to complete the assessment within ninety (90) days the examiner shall provide to the court and counsel a summary progress report which informs the court that additional time is necessary to complete the assessment, in which case the examiner may have up to an additional ninety (90) days to provide the full report for good cause shown, as follows:

(A) The full report shall assess:

(I) The facility's or program's capacity to provide appropriate treatment for the accused;

(II) The nature of treatments provided to the accused;

(III) What progress toward competency restoration has been made with respect to the factors identified by the court in its initial order;

(IV) The accused's current level of mental disorder or mental deficiency and need for treatment, if any; and

(V) The likelihood of restoration of competency and the amount of time estimated to achieve competency.

(B) Upon receipt of the full report, the court shall hold a hearing to determine the accused's current status. The burden of proving that the accused is fit to proceed shall be on the proponent of the assertion. Following the hearing, the court shall determine by a preponderance of the evidence whether the accused is:

(I) Fit to proceed;

(II) Not fit to proceed with a substantial probability that the accused may become fit to proceed in the foreseeable future; or

(III) Not fit to proceed without a substantial probability that the accused may become fit to proceed in the foreseeable future.

(C) If the court makes a determination pursuant to subdivision (B)(I) of this paragraph, the court shall proceed with the trial or any other procedures as may be necessary to adjudicate the charges;

(D) If the court makes a determination pursuant to subdivision (B)(II) of this paragraph, the court may order that the accused remain committed to the custody of the designated facility for the purpose of treatment intended to restore the accused to competency;

(E) If the court makes a determination pursuant to subdivision (B)(III) of this paragraph, the court shall order the accused released from the custody of the designated facility unless proper civil commitment proceedings have been instituted and held as provided in title 25 of the Wyoming statutes. The continued retention, hospitalization and discharge of the accused shall be the same as for other patients.

(ii) If it is determined pursuant to subdivision (i)(B)(II) of this subsection that there is substantial probability that the accused will regain his fitness to proceed, the commitment of the accused at a designated facility shall continue until the head of the facility reports to the court that in his opinion the accused is fit to proceed. If this opinion is not contested by the state, the accused or his

counsel, the criminal proceeding shall be resumed. If the opinion is contested, the court shall hold a hearing as provided in subsection (f) of this section. While the accused remains at a designated facility under this subsection, the head of the facility shall issue a full report at least once every three (3) months in accordance with the requirements of subparagraph (i)(A) of this subsection on the progress the accused is making towards regaining his fitness to proceed.

(h) A finding by the court that the accused is mentally fit to proceed shall not prejudice the accused in a defense to the crime charged on the ground that at the time of the act he was afflicted with a mental illness or deficiency excluding responsibility. Nor shall the finding be introduced in evidence on that issue or otherwise brought to the notice of the jury. No statement made by the accused in the course of any examination or treatment pursuant to this section and no information received by any person in the course of the examination or treatment shall be admitted in evidence in any criminal proceeding then or thereafter pending on any issue other than that of the mental condition of the accused.

(j) Notwithstanding any provision of this section, counsel for the accused may make any and all legal objections which are susceptible of a fair determination prior to trial without the personal participation of the accused.

7-11-304. Responsibility for criminal conduct; plea; examination; commitment; use of statements by defendant.

(a) A person is not responsible for criminal conduct if at the time of the criminal conduct, as a result of mental illness or deficiency, he lacked substantial capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law. As used in this section, the terms mental illness or deficiency mean only those severely abnormal mental conditions that grossly and demonstrably impair a person's perception or understanding of reality and that are not attributable primarily to self-induced intoxication as defined by W.S. 6-1-202(b).

(b) As used in this section, the terms "mental illness or deficiency" do not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

(c) Evidence that a person is not responsible for criminal conduct by reason of mental illness or deficiency is not

admissible at the trial of the defendant unless a plea of "not guilty by reason of mental illness or deficiency" is made. A plea of "not guilty by reason of mental illness or deficiency" may be pleaded orally or in writing by the defendant or his counsel at the time of his arraignment. The court, for good cause shown, may also allow that plea to be entered at a later time. Such a plea does not deprive the defendant of other defenses.

(d) In all cases where a plea of "not guilty by reason of mental illness or deficiency" is made, the court shall order an examination of the defendant by a designated examiner. The order may include, but is not limited to, an examination of the defendant at the Wyoming state hospital on an inpatient or outpatient basis, at a local mental health center on an inpatient or outpatient basis, or at his place of detention. In selecting the examination site, the court may consider proximity to the court, availability of an examiner and the necessity for security precautions. If the order provides for commitment of the defendant to a designated facility, the commitment shall continue no longer than a forty-five (45) day period for the observation and evaluation of the mental condition of the defendant, which time may be extended by the approval of the court.

(e) If an examination of a defendant's fitness to proceed has been ordered pursuant to W.S. 7-11-303, an examination following a plea of "not guilty by reason of mental illness or deficiency" shall not occur, or be ordered, until the court has found the defendant is competent to proceed under W.S. 7-11-303.

(f) A written report of the examination shall be filed with the clerk of court. The report shall include:

(i) Detailed findings, including, but not limited to, the data and reasoning that link the opinions specified in paragraphs (ii) and (iii) of this subsection;

(ii) An opinion as to whether the defendant has a mental illness or deficiency;

(iii) An opinion as to whether at the time of the alleged criminal conduct the defendant, as a result of mental illness or deficiency, lacked substantial capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law.

(g) The clerk of court shall deliver copies of the report to the district attorney and to the defendant or his counsel. The report shall not be a public record or open to the public. If an examination provided under subsection (d) of this section was conducted, the report may be received in evidence and no new examination shall be required unless requested under this subsection. Within five (5) days after receiving a copy of the report, the defendant or the state, upon written request, may obtain an order granting an examination of the defendant by a designated examiner chosen by the requester of the examination.

(h) Except as otherwise provided in this subsection, no statement made by the defendant in the course of any examination or treatment pursuant to this section and no information received by any person in the course thereof is admissible in evidence in any criminal proceeding on any issue other than that of the mental condition of the defendant. If the defendant testifies in his own behalf, any statement made by him in the course of any examination or treatment pursuant to this section may be admitted:

(i) For impeachment purposes; or

(ii) As evidence in a criminal prosecution for perjury.

7-11-305. Pleas of not guilty and not guilty by reason of mental illness or deficiency; burden of proof; expert witnesses.

(a) When a defendant couples a plea of not guilty with a plea of not guilty by reason of mental illness or deficiency, proof shall be submitted before the same jury in a continuous trial on whether the defendant in fact committed the acts charged, on the remaining elements of the alleged criminal offense and on the issue of mental responsibility of the defendant. In addition to other forms of verdict submitted to the jury, the court shall submit a verdict by which the jury may find the defendant not guilty by reason of mental illness or deficiency excluding responsibility.

(b) The prosecution shall prove beyond a reasonable doubt all the elements of the offense charged. Every defendant is presumed to be mentally responsible. The defendant shall have the burden of going forward and proving by the greater weight of evidence that, as a result of mental illness or deficiency, he lacked capacity either to appreciate the wrongfulness of his

conduct or to conform his conduct to the requirements of the law.

(c) Only the designated examiners who examined the defendant pursuant to W.S. 7-11-303 or 7-11-304 are competent witnesses to testify as to the defendant's mental responsibility.

(d) In addition, the state and the defendant may summon other expert witnesses who did not examine the defendant. Such experts are not competent to testify as to the mental responsibility of the defendant; however, they may testify as to the validity of the procedures followed and the general scientific propositions stated by other witnesses.

(e) The designated examiner who examined the defendant may testify as to and explain the nature of his examinations, his diagnosis of mental illness or deficiency of the defendant, and his opinion as to the defendant's ability to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law. The designated examiner may be cross-examined as to his competence and the credibility of his diagnosis and his opinion.

7-11-306. Disposition of persons found not guilty by reason of mental illness or deficiency excluding responsibility.

(a) After entry of a judgment of not guilty by reason of mental illness or deficiency excluding responsibility, the court shall, on the basis of evidence given at trial or at a separate hearing, make an order as provided in subsection (b), (c) or (d) of this section.

(b) If the court finds that the person is no longer affected by mental illness or deficiency, or that he no longer presents a substantial risk of danger to himself or others and is not in need of care, supervision or treatment, the court shall order him discharged from custody.

(c) If the court finds that the person is affected by mental illness or deficiency and presents a substantial risk of danger to himself or others, but can be controlled adequately and given proper care, supervision and treatment if released on supervision, the court shall order him released subject to the supervisory orders of the court as are appropriate in the interests of justice and the welfare of the defendant. The court may appoint any person or state, county or local agency which

the court considers capable of supervising the person upon release. Upon receipt of an order issued under this subsection, the person or agency appointed shall assume the supervision of the person pursuant to the direction of the court. Conditions of release in the order of the court may be modified from time to time and supervision may be terminated by order of the court. If upon a hearing the state shows by a preponderance of the evidence that the person released on supervision under this subsection can no longer be controlled adequately by supervision, the court may order the person committed to the Wyoming state hospital or other designated facility for custody, care and treatment.

(d) If the court finds that the person is affected by mental illness or deficiency and presents substantial risk of danger to himself or others and that he is not a proper subject for release or supervision, the court shall order him committed to the Wyoming state hospital or other designated facility for custody, care and treatment.

(e) Following the first ninety (90) days of commitment to the Wyoming state hospital or other designated facility under this section, if at any time the head of the facility is of the opinion that the person is no longer affected by mental illness or deficiency, or that he no longer presents a substantial risk of danger to himself or others, the head of the facility shall apply to the court which committed the person for an order of discharge. The application shall be accompanied by a report setting forth the facts supporting the opinion of the head of the facility. Copies of the application and report shall be transmitted by the clerk of the court to the district attorney. The court shall hold a hearing on this matter as soon as possible. If the state opposes the recommendation of the head of the facility, the state has the burden of proof by a preponderance of the evidence to show that the person continues to be affected by mental illness or deficiency and continues to present a substantial risk of danger to himself or others and should remain in the custody of the designated facility.

(f) Ninety (90) days after the order of commitment, any person committed to the designated facility under this section may apply to the district court of the county from which he was committed for an order of discharge upon the grounds that he is no longer affected by mental illness or deficiency, or that he no longer presents a substantial risk of danger to himself or others. The application for discharge shall be accompanied by a report of the head of the facility which shall be prepared and

transmitted as provided in subsection (e) of this section. The court shall hold a hearing on this matter as soon as possible. The applicant shall prove by a preponderance of the evidence his fitness for discharge. An application for an order of discharge under this subsection filed within six (6) months of the date of a previous hearing shall be subject to summary disposition by the court.

(g) If the court, after a hearing upon any application for discharge, or application for modification or termination of release on supervision, under subsections (c) through (f) of this section, finds that the person is no longer affected by mental illness or deficiency, or that he no longer presents a substantial risk of danger to himself or others, the court shall order him discharged from custody or from supervision. If the court finds that the person is still affected by a mental illness or deficiency and presents a substantial risk of danger to himself or others, but can be controlled adequately if he is released on supervision, the court shall order him released on supervision as provided in subsection (c) of this section. If the court finds that the person has not recovered from his mental illness or deficiency and presents a substantial risk of danger to himself or others and cannot adequately be controlled if he is released on supervision, the court shall order him remanded for continued care and treatment.

(h) In any hearing under this section the court may appoint one (1) or more designated examiners to examine the person and submit reports to the court. Reports filed with the court shall include, but need not be limited to, an opinion as to the mental condition of the person and whether the person presents a substantial risk of danger to himself or others. To facilitate examination, the court may order the person placed in the temporary custody of any designated facility. If neither the district attorney nor the defendant or his counsel, if any, contests the findings of the report filed with the court, the court may make the determination on the basis of the report filed with the court. If the report is contested, the court shall hold a hearing on the issue. If the report is received in evidence at the hearing, the party who contests the report has the right to summon and to cross-examine the examiners who submitted the report and to offer evidence upon the issue. Other evidence regarding the person's mental condition may be introduced by either party.

7-11-307. Treatment of defendant committed to state hospital.

In all cases in which the defendant is committed to the Wyoming state hospital under the provisions of this act, the defendant shall be received and treated in the same manner as all other persons committed to the institution and be subject to the same rules and regulations. Due caution shall be exercised to prevent the escape of the defendant.

ARTICLE 4
TESTIMONY AND WITNESSES

7-11-401. Testimony of defendant.

The defendant in all criminal cases, in all the courts in this state, may be sworn and examined as a witness, if he so elects, but the defendant shall not be required to testify in any case unless he has been lawfully granted immunity from prosecution, penalty or forfeiture. The neglect or refusal of a defendant to testify without immunity having been granted shall not create any presumption against him, nor shall any reference be made to, nor shall any comment be made upon, his neglect or refusal to testify.

7-11-402. Subpoena of witnesses for indigent defendants.

(a) Upon application of a defendant and upon a satisfactory showing that the defendant is financially unable to pay the fees of a witness and that the presence of the witness is necessary to an adequate defense, the court shall order that a subpoena be issued for service on a named witness and order that all fees and costs incurred be paid as provided by subsection (b) of this section.

(b) If the court orders a subpoena to be issued under this section, the costs incurred and the fees of the witness so subpoenaed shall be paid by the public defender's office.

7-11-403. Applicability of rules and civil procedure provisions.

(a) To the extent practicable and when not otherwise specifically provided, the provisions of the Wyoming Rules of Civil Procedure, the Wyoming Rules of Evidence and the Wyoming Code of Civil Procedure shall govern in criminal cases, relative to:

(i) Compelling the attendance and testimony of witnesses;

(ii) The examination of witnesses and the administering of oaths and affirmations;

(iii) Proceedings for contempt; and

(iv) Proceedings to enforce the remedies and protect the rights of parties.

7-11-404. Summoning of person within this state to appear as witness in another state.

(a) If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in criminal prosecutions in this state certifies under the seal of the court that there is a criminal prosecution pending in such court, that a person being within this state is a material witness in the prosecution, and that his presence will be required for a specified number of days, upon presentation of the certificate to any judge of a court of record in the county in which such person is, the judge shall fix a time and place for hearing and shall notify the witness of the time and place.

(b) If at the hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution in the other state and that the laws of the state in which the prosecution is pending and of any other state through which the witness may be required to pass by ordinary course of travel will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending at a time and place specified in the summons.

(c) A witness who is summoned to attend and testify in a criminal prosecution in another state as provided by this section, shall not be compelled to attend unless he is paid or tendered by some properly authorized person compensation including mileage for each mile traveled by the ordinary route to and from the court where the prosecution is pending and witness fees for each day that he is required to travel and attend as a witness. The mileage and witness fees shall be at the same rate paid other witnesses under the laws of the state

requiring attendance. A witness who has been paid or tendered the compensation required by this subsection and who fails without good cause to attend and testify as directed in the summons, shall be punished in a manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

7-11-405. Summoning of person in another state to appear as witness in this state.

(a) If a person in any state, which by its laws has made provisions for commanding persons within its borders to attend and testify in criminal prosecutions in this state, is a material witness in a prosecution pending in a court of record in this state, a judge of the Wyoming court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

(b) If the witness is summoned to attend and testify in the criminal prosecution in this state, he shall be paid or tendered payment for mileage for each mile traveled by the ordinary route to and from the court where the prosecution is pending and witness fees for each day that he is required to travel and attend as a witness at the same rate paid other witnesses under the laws of this state. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this state a longer period of time than the period mentioned in the certificate of the Wyoming court.

7-11-406. Exemption of out-of-state witness from arrest or service of process.

(a) If a person comes into this state pursuant to a summons directing him to attend and testify in a criminal prosecution in this state he shall not while in this state pursuant to the summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the summons.

(b) If a person passes through this state while going to another state pursuant to a summons to attend and testify in a criminal prosecution in that state or while returning therefrom, he shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in

connection with matters which arose before his entrance into this state under the summons.

7-11-407. Procedures for taking depositions.

Procedures for the taking of depositions in criminal cases shall be governed by the Wyoming Rules of Criminal Procedure.

7-11-408. Videotape depositions.

(a) In any case in which the defendant is charged with incest as defined in W.S. 6-4-402(a) or sexual assault as defined in W.S. 6-2-302 through 6-2-304 and 6-2-314 through 6-2-317 and a child less than twelve (12) years of age is the victim, the judge may order the taking of a videotape deposition of the child. The videotaping shall be done under the supervision of the court.

(b) Persons allowed to be present at the videotaping of the deposition are the child, the judge, prosecutor, defendant and defense counsel, a family member who was not a witness to the offense or a support person for the child and any technicians required to operate the equipment.

(c) Before ordering the deposition, the judge shall find that:

(i) The child's testimony would be relevant and material;

(ii) The best interests of the child would be served by permitting the videotape deposition;

(iii) A potential physical or psychological harm to the child is likely to occur if the child is required to testify which would effectively render the child incapable to testify at the trial; and

(iv) The defendant or his legal counsel has the opportunity to be present and to cross-examine the child at the videotape deposition.

(d) The judge may deny the defendant's face-to-face confrontation of the child at the videotape deposition if:

(i) The defendant is alleged to have inflicted physical harm or is alleged to have threatened to inflict

physical harm upon the child, and physical or psychological harm to the child is likely to occur if there is a face-to-face confrontation of the child by defendant;

(ii) The defendant's legal counsel will have reasonable opportunity to confer with his client before and at any time during the videotape deposition; and

(iii) The defendant will have opportunity to view and hear the proceedings while being taken.

(e) A videotape deposition may be admitted at trial in lieu of the direct testimony of the child, if the judge finds, after hearing, that:

(i) The visual and sound qualities of the videotape are satisfactory;

(ii) The videotape is not misleading;

(iii) All portions of the videotape that have been ruled inadmissible have been deleted; and

(iv) A potential physical or psychological harm to the child is likely to occur if the child is required to testify which would effectively render the child incapable to testify at the trial.

(f) Children unable to articulate what was done to them will be permitted to demonstrate the sexual act or acts committed against them with the aid of anatomically correct dolls. Such demonstrations will be under the supervision of the court and shall be videotaped to be viewed at trial, and shall be received into evidence as demonstrative evidence.

(g) Videotapes which are part of the court record are subject to a protective order to preserve the privacy of the child.

(h) If the prosecutor elects to utilize a videotaped deposition pursuant to this section and the videotape has been taken and is admissible, the child may not testify in court without the consent of the defendant.

ARTICLE 5
VERDICT and SENTENCE

7-11-501. Return of verdict; poll of jury.

In all criminal cases the verdict shall be unanimous. It shall be returned by the jury to the judge in open court. Before the verdict is accepted and recorded, the jury shall be polled at the request of any party or upon the court's own motion. If upon the poll there is not unanimous concurrence, the jury may be directed to retire for further deliberations or may be discharged.

7-11-502. Conviction of necessary included offense or attempt.

In any criminal case the defendant may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

7-11-503. Execution of jail sentence.

When any person convicted of an offense is sentenced to imprisonment in the county jail, the court shall order the defendant into the custody of the sheriff, who shall deliver him, together with the record of conviction, to the jailor, in whose custody he shall remain in the jail of the proper county, until the term of his confinement expires, or he is pardoned or otherwise legally discharged.

7-11-504. Commitment until fine and costs paid.

If a defendant sentenced to pay a fine or costs defaults in payment, the court may order the defendant to show cause why he should not be committed to jail. If the court finds that the defendant's default is willful or is due to a failure on defendant's part to make a good faith effort to obtain the funds required for the payment and the court determines that the defendant has an ability to pay or that a reasonable probability exists that the defendant will have an ability to pay, the court may order him committed until the fine or costs, or a specified part thereof, is paid. The defendant shall be given a credit for each day of imprisonment at the rate provided by W.S. 6-10-105, and may earn additional credits against his fine or costs for work performed as provided by W.S. 7-16-101 through 7-16-104.

7-11-505. Payment of costs of prosecution.

Payment of the costs of prosecution may be added to and made a part of the sentence in any felony or misdemeanor case if the court determines that the defendant has an ability to pay or that a reasonable probability exists that the defendant will have an ability to pay.

7-11-506. Trial transcript for indigent prisoner upon appeal.

Any person sentenced to imprisonment in a state penal institution, who appeals to the supreme court, may file, in the court in which that person was convicted, a petition requesting that the person be furnished with a stenographic transcript of the proceedings at that person's trial. The petition shall be verified by the petitioner and shall state facts showing that at the time of conviction and at the time of filing the petition that person was without financial means to pay for the transcript. If the judge who imposed sentence, or any other judge of the court, finds that the defendant is without financial means with which to obtain the transcript of the proceedings at trial, the judge shall order the reporter to transcribe an original and copy of the reporter's notes. The original of the transcript shall be filed with the clerk and the copy shall be delivered to the defendant without charge. The reporter's fees for preparation of the transcript shall be the same as those prescribed in W.S. 5-3-410, and shall be paid by the county in which the conviction is had.

7-11-507. Advisement of loss of firearms rights upon conviction.

(a) No judgment of conviction shall be entered upon a plea of guilty or nolo contendere to any charge which may result in the disqualification of the defendant to possess firearms pursuant to the provisions of 18 U.S.C. §§ 922(g)(1), (9) and 924(a)(2) or other federal law unless the defendant was advised in open court by the judge:

(i) Of the collateral consequences that may arise from that conviction pursuant to the provisions of 18 U.S.C. §§ 921(a)(33), 922(g)(1), (9) and 924(a)(2); and

(ii) That if the defendant is a peace officer, member of the armed forces, hunting guide, security guard or engaged in any other profession or occupation requiring the carrying or possession of a firearm, that he may now, or in the future, lose

the right to engage in that profession or occupation should he be convicted.

CHAPTER 12
APPEAL, EXCEPTIONS AND NEW TRIAL

ARTICLE 1
APPEAL AND BILL OF EXCEPTIONS

7-12-101. Manner of appeal.

A defendant may appeal his conviction in any criminal case in the manner provided by the Wyoming Rules of Appellate Procedure.

7-12-102. Right of district attorney to take exceptions; certification; rules.

The district attorney may take exceptions to any opinion or decision of the court made during the prosecution of a criminal case. Before being filed in the supreme court, the bill of exceptions shall be presented to the trial court which shall certify whether the contents of the bill are correct. If certified, the trial court shall sign the bill containing the exceptions and affix the seal of the court and the bill shall be made part of the record. The bill of exceptions shall be governed by rules as shall be promulgated by the Wyoming supreme court.

7-12-103. Filing of bill by attorney general in supreme court.

Following certification of a bill of exceptions by the trial court as provided by W.S. 7-12-102, the attorney general may apply to the supreme court for permission to file the bill for review and decision upon the points presented. If the supreme court allows the bill to be filed, the judge who presided at the trial in which the bill was taken shall appoint a competent attorney to argue the case against the state and shall fix a reasonable fee for his service to be paid out of the treasury of the county in which the bill was taken.

7-12-104. Decision of supreme court upon bill.

(a) If the bill of exceptions is allowed to be filed, the supreme court shall render a decision on each point presented.

(b) The decision of the supreme court shall determine the law to govern in any similar case which may be pending at the time the decision is rendered, or which may afterwards arise in the state, but shall not reverse nor in any manner affect the judgment of the court in the case in which the bill of exceptions was taken.

ARTICLE 2
PROCEEDINGS UPON REVERSAL

7-12-201. Disposition of defendant.

(a) If the judgment of conviction of any defendant committed to a state penal institution is reversed on appeal, the clerk of the supreme court shall forward to the department of corrections and to the administrator of the institution a certified copy of the court's mandate directing the defendant's discharge or a new trial.

(b) Upon receipt of the mandate the director of the department of corrections shall direct the administrator either to discharge the defendant or return the defendant to the county jail of the county in which the defendant was convicted to be held in the custody of the sheriff pending a new trial.

ARTICLE 3
NEW TRIAL

7-12-301. Repealed by Laws 1988, ch. 46, § 2.

7-12-302. Short title.

This act shall be known and may be cited as the "Post-Conviction DNA Testing Act."

7-12-303. New trial; motion for post-conviction testing of DNA; motion contents; sufficiency of allegations, consent to DNA sample; definitions.

(a) As used in this act:

(i) "DNA" means deoxyribonucleic acid;

(ii) "Movant" means the person filing a motion under subsection (c) of this section;

(iii) "This act" means W.S. 7-12-302 through 7-12-315.

(b) Notwithstanding any law or rule of procedure that bars a motion for a new trial as untimely, a convicted person may use the results of a DNA test ordered pursuant to this act as the grounds for filing a motion for a new trial.

(c) A person convicted of a felony offense may, preliminary to the filing of a motion for a new trial, file a motion for post-conviction DNA testing in the district court that entered the judgment of conviction against him if the movant asserts under oath and the motion includes a good faith, particularized factual basis containing the following information:

(i) Why DNA evidence is material to:

(A) The identity of the perpetrator of, or accomplice to, the crime;

(B) A sentence enhancement; or

(C) An aggravating factor alleged in a capital case.

(ii) That evidence is still in existence and is in a condition that allows DNA testing to be conducted;

(iii) That the chain of custody is sufficient to establish that the evidence has not been substituted, contaminated or altered in any material aspect that would prevent reliable DNA testing;

(iv) That the specific evidence to be tested can be identified;

(v) That the type of DNA testing to be conducted is specified;

(vi) That the DNA testing employs a scientific method sufficiently reliable and relevant to be admissible under the Wyoming Rules of Evidence;

(vii) That a theory of defense can be presented, not inconsistent with theories previously asserted at trial, that the requested DNA testing would support;

(viii) That the evidence was not previously subjected to DNA testing, or if the evidence was previously tested one (1) of the following would apply:

(A) The result of the testing was inconclusive;

(B) The evidence was not subjected to the testing that is now requested, and the new testing may resolve an issue not resolved by the prior testing; or

(C) The requested DNA test would provide results that are significantly more accurate and probative of the identity of the perpetrator or accomplice.

(ix) That the evidence that is the subject of the request for testing has the potential to produce new, noncumulative evidence that will establish the movant's actual innocence.

(d) The court may not order DNA testing in cases in which the trial or a plea of guilty or nolo contendere occurred after January 1, 2000 and the person did not request DNA testing or present DNA evidence for strategic or tactical reasons or as a result of a lack of due diligence, unless the failure to exercise due diligence is found to be a result of ineffective assistance of counsel. A person convicted before January 1, 2000 shall not be required to make a showing of due diligence under this subsection.

7-12-304. Service of process; response by the state; preservation of evidence.

(a) Notice of the motion filed under W.S. 7-12-303(c) shall be served upon the district attorney in the county in which the conviction occurred and, if applicable, the governmental agency or laboratory holding the evidence sought to be tested.

(b) The district attorney who is served shall within sixty (60) days after receipt of service of a copy of the motion, or within any additional period of time the court allows, answer or otherwise respond to the motion requesting DNA testing.

(c) The district attorney who is served may support the motion requesting DNA testing or oppose the motion with a statement of reasons and may recommend to the court, if any DNA

testing is ordered, that a particular type of testing should be conducted, or object to the proposed testing laboratory, or make such other objections, recommendations or requests as will preserve the integrity of the evidence, including, but not limited to, requests for independent testing by the state or procedures in the event that the proposed testing will deplete the DNA sample.

(d) If a motion is filed pursuant to W.S. 7-12-303(c), and the motion asserts the evidence is in the custody of the state or its agents, the court shall order the state to preserve during the pendency of the proceeding all material and relevant evidence in the state's possession or control that could be subjected to DNA testing and analysis. The state shall prepare an inventory of the evidence and shall submit a copy of the inventory to the movant and to the court. If the state determines that the evidence is no longer available, the state shall notify the court and the movant of the loss or destruction of the evidence and explain its loss or destruction. The state shall provide copies of chain of custody documentation or other documents explaining the loss or destruction of the evidence. After a motion is filed under W.S. 7-12-303(c), prosecutors in the case, law enforcement officers and crime laboratory personnel shall cooperate in preserving material and relevant evidence and in determining the sufficiency of the chain of custody of the evidence which may be subject to DNA testing.

7-12-305. Review by the court; hearing on motion, findings; order.

(a) If the court determines that a motion is filed in compliance with the requirements of W.S. 7-12-303(c) and the state has had opportunity to respond to the motion, the court shall set a hearing for not more than ninety (90) days after the date the motion was filed. If the court finds that the motion does not comply with the requirements of W.S. 7-12-303(c), the court may deny the motion without hearing.

(b) The hearing under subsection (a) of this section shall be heard by the judge who conducted the trial that resulted in the movant's conviction unless the judge is unavailable.

(c) The movant and the state may present evidence by sworn and notarized affidavits or by testimony; provided, however, any affidavit shall be served on the opposing party at least fifteen (15) days prior to the hearing.

(d) The movant shall be required to present a prima facie case showing that the evidence supports findings consistent with the facts asserted under W.S. 7-12-303(c) and DNA testing of the specified evidence would, assuming exculpatory results, establish:

(i) The actual innocence of the movant of the offense for which the movant was convicted; or

(ii) In a capital case:

(A) The movant's actual innocence of the charged or uncharged conduct constituting an aggravating circumstance; or

(B) A mitigating circumstance as a result of the DNA testing.

(e) If the court finds that the movant has presented a prima facie case showing that the evidence supports findings consistent with W.S. 7-12-303(c) and the evidence would establish actual innocence, the court may order testing, subject to W.S. 7-12-306.

7-12-306. Designation of testing laboratory.

(a) If the court orders DNA testing pursuant to W.S. 7-12-305(e), the DNA test shall be performed by the Wyoming state crime laboratory unless the movant establishes that the state crime laboratory has a conflict of interest or does not have the capability to perform the necessary testing.

(b) If the court orders that the DNA testing under W.S. 7-12-305(e) shall be conducted by a laboratory other than the state crime laboratory, the court shall require that the testing be performed:

(i) Under reasonable conditions designed to protect the state's interests in the integrity of the evidence;

(ii) By a laboratory that:

(A) Meets standards that at minimum comply with the standards of the DNA advisory board established pursuant to 42 U.S.C. 14131; and

(B) Is accredited by the American society of crime laboratory directors accreditation board.

7-12-307. Discovery.

(a) If the DNA evidence being tested under this act has been previously subjected to DNA analysis by either the state or defense prior to the hearing conducted under W.S. 7-12-305, the court may order the state or defense to provide each party and the court with access to the laboratory reports prepared in connection with the DNA analysis, as well as the underlying data and laboratory notes. If DNA or other analysis was previously conducted by either the state or defense without the knowledge of the other party, all information relating to the testing shall be disclosed by the motion filed under W.S. 7-12-303(c) or any response thereto.

(b) The results of any DNA testing ordered under W.S. 7-12-305(e) shall be fully disclosed to the movant, the district attorney, the attorney general and the court. If requested by any party, the court shall order production of the underlying laboratory data and notes or chain of custody documents.

7-12-308. Right to counsel.

A convicted person is entitled to counsel during a proceeding under this act. Upon request of the person, the court shall appoint counsel for the convicted person if the court determines that the person is needy and the person wishes to submit a motion under W.S. 7-12-303(c). Counsel shall be appointed as provided in W.S. 7-6-104(c)(vii).

7-12-309. Costs of testing.

(a) The person filing a motion under W.S. 7-12-303(c) shall bear the cost of the DNA testing unless:

(i) The person is serving a sentence of imprisonment;

(ii) The person is needy; and

(iii) The DNA test supports the person's motion.

(b) In the case of a person meeting the criteria specified in paragraphs (a)(i) through (iii) of this section, the costs of testing shall be paid by the state.

7-12-310. Order following testing.

(a) If the results of the DNA analysis are inconclusive or show that the movant is the source of the evidence, the court shall deny any motion for a new trial based upon the DNA evidence and shall provide the results to the board of parole.

(b) If the results of the DNA analysis are consistent with assertions contained in the movant's motion, the court shall set the matter for hearing on the motion for a new trial.

(c) Upon the stipulation of both parties or a motion for dismissal of the original charges against the movant by the state in lieu of a retrial, the court shall:

(i) Vacate the movant's conviction consistent with the evidence demonstrating the movant's actual innocence;

(ii) Issue an order of actual innocence and exoneration; and

(iii) Issue an order of expungement.

(d) In the event a retrial is pursued and conducted and the movant is acquitted at the retrial, the court shall:

(i) Issue an order of actual innocence and exoneration; and

(ii) Issue an order of expungement.

7-12-311. Victim notification.

Following any motion filed under this act, the district attorney shall provide notice to the victim that the motion has been filed, the time and place for any hearing that may be held as a result of the motion, and the disposition of the motion. For purposes of this section, "victim" means as defined in W.S. 1-40-202(a)(ii).

7-12-312. Rights not waived; refiling of uncharged offenses.

(a) Notwithstanding any other provision of law, the right to file a motion under W.S. 7-12-303(c) shall not be waived. The prohibition against waiver of the right provided under this section applies to, but is not limited to, a waiver that is

given as part of an agreement resulting in a plea of guilty or nolo contendere.

(b) If a movant is granted a new trial under this act, any offense that was dismissed or not charged pursuant to a plea agreement that resulted in the conviction that has been set aside as a result of this act may be refiled by the state.

7-12-313. Appeal.

(a) An order granting or denying a motion for DNA testing filed under W.S. 7-12-303(c) shall not be appealable, but may be subject to review only under a writ of review filed by the movant, the district attorney or the attorney general. The petition for a writ of review may be filed no later than twenty (20) days after the court's order granting or denying the motion for DNA testing.

(b) Any party to the action may appeal to the Wyoming supreme court any order granting or denying a motion for a new trial under W.S. 7-12-310(b).

7-12-314. Subsequent motions.

The court shall not be required to entertain a second or subsequent motion under W.S. 7-12-303(c) on behalf of the same movant, except where there is clear and compelling evidence that the evidence sought to be tested was wrongfully withheld from the movant by the state or its agents.

7-12-315. Consensual testing.

Nothing in this act shall be interpreted to prohibit a convicted person and the state from consenting to and conducting post-conviction DNA testing without filing a motion under W.S. 7-12-303(c). Notwithstanding any other provision of law governing post-conviction relief, if DNA test results are obtained under testing conducted upon consent of the parties and the results are favorable to the convicted person, the convicted person may file, and the court shall adjudicate, a motion for a new trial based on the DNA test results.

ARTICLE 4
POSTCONVICTION DETERMINATION OF FACTUAL INNOCENCE

7-12-401. Short title.

This act shall be known and may be cited as the "Post-Conviction Determination of Factual Innocence Act."

7-12-402. Definitions.

(a) As used in this act:

(i) "Bona fide issue of factual innocence" means that the newly discovered evidence presented by the petitioner, if credible, would clearly establish the petitioner's factual innocence;

(ii) "Factual innocence" or "factually innocent" means a person:

(A) Did not engage in the conduct for which he was convicted;

(B) Did not engage in conduct constituting a lesser included or inchoate offense of the crime for which he was convicted; and

(C) Did not commit any other crime arising out of or reasonably connected to the facts supporting the indictment or information upon which he was convicted.

(iii) "Forensic science" is the application of scientific or technical practices to the recognition, collection, analysis and interpretation of evidence for criminal and civil law or regulatory issues;

(iv) "Newly discovered evidence" means evidence that was not available to the petitioner at trial or during the resolution by the trial court of any motion to withdraw a guilty plea or motion for new trial and which is relevant to the determination of the issue of factual innocence, including:

(A) Evidence that was discovered prior to or in the course of any appeal or post-conviction proceedings that served in whole or in part as the basis to vacate or reverse the petitioner's conviction;

(B) Evidence that supports the claims within a petition for post-conviction relief under W.S. 7-14-101 through 7-14-108 that is pending at the time of the court's determination of factual innocence under this act; or

(C) Relevant forensic scientific evidence that was not available at the time of trial or during the resolution by the trial court of any motion to withdraw a guilty plea or motion for new trial, or that undermines forensic evidence presented at trial. Forensic scientific evidence is to be considered as "undermined" if new research or information exists that repudiates:

(I) The foundational validity of the challenged evidence or testimony. "Foundational validity" means the reliability of the method to be repeatable, reproducible and accurate in a scientific setting; or

(II) The applied validity of the method or technique. "Applied validity" means the reliability of the method or technique in practice.

(v) "This act" means W.S. 7-12-401 through 7-12-407.

7-12-403. Petition for exoneration based on factual innocence; conduct of proceedings.

(a) A person who has been convicted of a felony offense may petition the district court in the county in which the person was convicted for a hearing to establish that the person is factually innocent of the crime or crimes of which the person was convicted.

(b) The petition shall contain an assertion of factual innocence under oath by the petitioner and shall aver, with supporting affidavits or other credible documents, that:

(i) Newly discovered evidence exists that, if credible, establishes a bona fide issue of factual innocence;

(ii) The specific evidence identified by the petitioner establishes innocence and is material to the case and the determination of factual innocence;

(iii) The material evidence identified by the petitioner is not merely cumulative of evidence that was known, is not reliant solely upon recantation of testimony by a witness against the petitioner and is not merely impeachment evidence;

(iv) When viewed with all other evidence in the case, whether admitted during trial or not, the newly discovered

evidence demonstrates that the petitioner is factually innocent; and

(v) Newly discovered evidence claimed in the petition is distinguishable from any claims made in prior petitions.

(c) The court shall review the petition in accordance with the procedures in W.S. 7-12-404, and make a finding whether the petition has satisfied the requirements of subsection (b) of this section. If the court finds the petition does not meet all the requirements of subsection (b) of this section, it shall dismiss the petition without prejudice and send notice of the dismissal to the petitioner, the district attorney, and the attorney general.

(d) The petition shall also contain an averment that:

(i) Neither the petitioner nor the petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or post-conviction petition, and the evidence could not have been discovered by the petitioner or the petitioner's counsel through the exercise of reasonable diligence; or

(ii) A court has found ineffective assistance of counsel for failing to exercise reasonable diligence in uncovering the evidence.

(e) Upon entry of a finding that the petition is sufficient under subsection (b) of this section, the court shall then review the petition to determine if subsection (d) of this section has been satisfied. If the court finds that the requirements of subsection (d) of this section have not been satisfied, it may dismiss the petition without prejudice and give notice to the petitioner, the district attorney and the attorney general of the dismissal, or the court may waive the requirements of subsection (d) if the court finds the petition should proceed to hearing and that there is other evidence that could have been discovered through the exercise of reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

(i) Was not discovered by the petitioner or the petitioner's counsel;

(ii) Is material upon the issue of factual innocence; and

(iii) Has never been presented to a court.

(f) A person who has already obtained post-conviction relief that vacated or reversed the person's conviction or sentence may also file a petition under this act in the same manner and form as described above, if no retrial or appeal regarding this offense is pending.

(g) If some or all of the newly discovered evidence alleged in a petition filed under this act is biological evidence subject to DNA testing, the petitioner shall seek DNA testing pursuant to W.S. 7-19-401 through 7-19-406. Separate petitions may be filed simultaneously in the same court.

(h) Except as provided in this act, and unless otherwise inconsistent with the provisions of this act, the petition and all subsequent proceedings shall be governed by the Wyoming Rules of Civil Procedure and the Wyoming Rules of Evidence and shall include the underlying criminal case number.

(j) Once a petition is filed under this section, attorneys for the state, law enforcement officers and crime laboratory personnel shall preserve the evidence that is the subject of the petition and shall preserve information to determine the sufficiency of the chain of custody of the evidence.

7-12-404. Service of process; response by state; review by the court.

(a) A person filing a petition under this act shall serve notice and a copy of the petition upon the office of the district attorney where the conviction was obtained and upon the Wyoming attorney general.

(b) The assigned district judge shall conduct an initial review of the petition. If it is apparent to the court that the petitioner is merely relitigating facts, issues or evidence presented in previous proceedings or presenting issues that appear frivolous or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal and serve notice of dismissal upon the petitioner, the district attorney and the attorney general. If, upon completion of the initial review, the court does not dismiss the petition, it

shall order the district attorney to file a response to the petition.

(c) The district attorney shall, within one hundred twenty (120) days after receipt of the court's order requiring a response, or within any additional period of time the court allows, answer or otherwise respond to the petition and serve the same upon the petitioner and the attorney general.

(d) After the time for response by the district attorney has passed, the court shall order a hearing if it finds the petition meets the requirements of W.S. 7-12-403 and finds there is a bona fide and compelling issue of factual innocence regarding the charges of which the petitioner was convicted. No bona fide and compelling issue of factual innocence exists if the petitioner is merely relitigating facts, issues or evidence presented in a previous proceeding or if the petitioner is unable to identify with sufficient specificity the nature and reliability of the newly discovered evidence that establishes the petitioner's factual innocence.

(e) Within thirty (30) days after the date the district attorney responds to the petition, the petitioner may reply. Within thirty (30) days after the time for petitioner to reply has passed, the court shall consider the petition and any response and enter an order either denying the petition or granting a hearing on the petition. The court may not grant a hearing during the period in which criminal proceedings in the matter are pending before any trial or appellate court, unless stipulated to by the parties.

(f) If the court grants a hearing, both the hearing and the final order following the hearing shall occur and be entered within one hundred fifty (150) days after the last day for the petitioner to reply to the district attorney's response to the petition, unless for good cause the court determines additional time is required.

(g) If the court sets a hearing on the petition and evidence is in the custody of the state or its agents, upon request of the petitioner, the court shall order the state to preserve all material and relevant evidence in the state's possession or control during the pendency of the proceeding.

(h) Upon motion, the court may order forensic testing of any available evidence.

(j) If the court orders forensic testing under subsection (h) of this section, the testing shall be performed by the Wyoming state crime laboratory unless the movant establishes that the state crime laboratory has a conflict of interest or does not have the capability to perform the necessary testing.

(k) If the court orders that forensic testing under subsection (h) of this section shall be conducted by a laboratory other than the Wyoming state crime laboratory, the court shall require that the testing be performed by a laboratory that is accredited by the American society of crime laboratory directors accreditation board, ANSI-ASQ national accreditation board or a successor accrediting body.

(m) The movant shall bear the cost of forensic testing ordered under subsection (h) of this section unless the court determines the movant is needy and the forensic testing supports the movant's petition for exoneration, in which case the court shall order the state to bear the cost of the forensic testing.

(n) If the parties stipulate the evidence establishes the petitioner is factually innocent, the court may find the petitioner is factually innocent without holding a hearing. If the state will not stipulate the evidence establishes the petitioner is factually innocent, no determination of factual innocence may be made by the court without first holding a hearing.

(o) Upon stipulation of the parties or the state's motion for dismissal of the original charges against the petitioner, the court shall vacate the petitioner's conviction, issue an order of factual innocence and exoneration and order expungement of the records of the original conviction.

(p) If, after a hearing, the court determines that the petitioner has proven his factual innocence by clear and convincing evidence, the court shall issue an order of factual innocence and exoneration and shall order expungement of the records of the original conviction.

7-12-405. Appointment of counsel.

The court may appoint counsel for a petitioner upon a determination that the petition is not subject to summary dismissal and the petitioner is needy. Counsel shall be appointed as provided in W.S. 7-6-104(c)(vii).

7-12-406. Victim notification.

Following any petition filed under W.S. 7-12-403, the district attorney shall make reasonable efforts to provide notice to the victim that the petition has been filed, the time and place for any hearing that may be held as a result of the petition and the disposition of the petition. For purposes of this section, "victim" means as defined in W.S. 1-40-202(a)(ii).

7-12-407. Appeal.

An order granting or denying a petition under this act is appealable by either party.

CHAPTER 13
SENTENCE AND IMPRISONMENT

ARTICLE 1
IN GENERAL

7-13-101. Sentencing of minors to boys' school upon first conviction of felony; term; parole.

(a) Upon his first conviction of a felony, any male offender under the age of eighteen (18) years may be sentenced to imprisonment in the Wyoming boys' school.

(b) In imposing a sentence under this section the court shall not fix a definite or minimum term of confinement in the boys' school but shall fix a maximum term which shall not exceed the maximum term provided for the statute violated.

(c) The department of family services may at any time grant to a person sentenced under this section a parole from the boys' school even though the person has not served a fixed minimum sentence.

7-13-102. Repealed by Laws 1992, ch. 25, § 4.

7-13-103. Notice of sentence; transportation to institution; maintenance of prisoner in county jail.

(a) If a person is sentenced to the custody of the department of corrections to serve a term of imprisonment in a state penal institution, the sheriff shall notify the department of corrections and the warden of the Wyoming medium correctional institution or the Wyoming women's center.

(b) Except as provided in subsection (c) of this section, the director of the department of corrections shall arrange for the transportation of the person to a state penal institution, at state expense, within ten (10) days after notification by the sheriff that the judgment and sentence has been signed by the judge. The court shall notify the sheriff immediately upon signing of the sentence by the judge. Except as provided in subsection (c) of this section, prior to being transported to the institution the prisoner shall be maintained in the county jail at the expense of the county.

(c) Upon agreement of the sheriff and the director of the department of corrections, the prisoner may be maintained at the county jail at an agreed per diem rate to be paid by the department for an additional period of not more than thirty (30) days after expiration of the ten (10) days provided by subsection (b) of this section. The department shall pay for any medical treatment of the prisoner, other than for conditions demanding immediate medical attention which can be treated at the county jail and other than medical treatment for which the county is liable under W.S. 18-6-303(c)(i), which is provided after the judgment and sentence is signed by the judge. Except for emergency medical treatment, no treatment which is the responsibility of the department under this subsection shall be provided without the prior approval of the department.

(d) The sheriff shall furnish the department of corrections and the warden of the Wyoming state penitentiary or the Wyoming women's center with a copy of the judgment and sentence imposed.

7-13-104. Record of prisoners.

The department of corrections shall keep a complete record of the background and current status of all prisoners sentenced and confined in any state penal institution. The administrator of the institution where a prisoner is incarcerated, the division of criminal investigation, and the clerk of court and sheriff of the county from which the prisoner is committed shall, at the request of the department or the board of parole, furnish any information in their possession relating to the prisoner or the offense committed.

7-13-105. Certificate of restoration of rights; procedure for restoration in general; procedure for restoration of voting rights for nonviolent felonies; filing requirements.

(a) Upon receipt of a written application, the governor may issue to a person convicted of a felony under the laws of a state or the United States a certificate which restores the rights lost pursuant to W.S. 6-10-106 when:

(i) His term of sentence expires; or

(ii) He satisfactorily completes a probation period.

(b) The department of corrections shall issue a certificate of restoration of voting rights as provided in this subsection and subsection (c) of this section. Upon issuance of a certificate, voting rights lost pursuant to W.S. 6-10-106 shall be deemed restored. The department of corrections shall automatically issue a person convicted of a nonviolent felony or nonviolent felonies arising out of the same occurrence or related course of events a certificate of restoration of voting rights if:

(i) The person has not been convicted of any other felony other than convictions arising out of the same occurrence or related course of events for which restoration of rights is certified; and

(ii) The person has completed all of his sentence, including probation or parole.

(iii) Repealed by Laws 2017, ch. 189, § 2.

(c) The department of corrections shall issue a certificate of restoration of voting rights to eligible persons as follows:

(i) For persons convicted within Wyoming of a nonviolent felony or nonviolent felonies arising out of the same occurrence or related course of events who completed their sentence before January 1, 2010, the department shall require receipt of a written request on a form prescribed by the department and issue each eligible person a certificate of restoration of voting rights following a determination that the person has completed his sentence, including probation and parole. The department shall not require an application for restoration before issuing a certificate to eligible persons who complete their sentence on and after January 1, 2010;

(ii) For persons convicted outside of Wyoming or under federal law of a nonviolent felony or nonviolent felonies arising out of the same occurrence or related course of events, the department shall issue each eligible person a certificate of restoration of voting rights upon receipt of a written request on a form prescribed by the department and following a determination that the person has completed his sentence, including probation and parole.

(d) The department of correction's determination that a person is ineligible for a certificate of restoration of voting rights is a final action of the agency subject to judicial review. The clerk of the district court and the division of criminal investigation shall cooperate with the department of corrections in providing information necessary for determining a person's eligibility to receive a certificate of restoration of voting rights. The department of corrections shall notify the secretary of state when any person's voting rights have been restored. If the person was convicted in Wyoming, the department of corrections shall submit the certificate of restoration of voting rights to the clerk of the district court in which the person was convicted and the clerk shall file the certificate in the criminal case in which the conviction was entered.

(e) As used in this section:

(i) "Same occurrence or related course of events" means the same transaction or occurrence or a series of events closely related in time or location;

(ii) "Violent felony" means as defined by W.S. 6-1-104(a)(xii), including offenses committed in another jurisdiction which if committed in this state would constitute a violent felony under W.S. 6-1-104(a)(xii). "Nonviolent felony" includes all felony offenses not otherwise defined as violent felonies.

7-13-106. Transfer of citizen or national of foreign country.

The governor may act on behalf of the state to consent to the transfer of a citizen or national of a foreign country pursuant to a treaty between the United States and the foreign country of which the person is a citizen or national.

7-13-107. Split sentence of incarceration in county jail followed by probation; civil liability of county officers and employees.

(a) Following a defendant's conviction of, or his plea of guilty to any felony, other than a felony punishable by death or life imprisonment, the court may impose any sentence of imprisonment authorized by law and except as provided in subsection (g) of this section, may in addition provide:

(i) That the defendant be confined in the county jail for a period of not more than one (1) year; and

(ii) That the execution of the remainder of the sentence be suspended and the defendant placed on probation.

(b) In placing the defendant on probation under subsection (a) of this section, the court may also:

(i) Impose any fine provided by the statute violated;

(ii) Apply the provisions of W.S. 7-13-501 through 7-13-503.

(c) Except as provided in subsection (a) of this section, the court may impose a split sentence of incarceration followed by probation in any felony case including those in which the statute violated specifically provides for a sentence of imprisonment in the state penitentiary.

(d) The court may impose a split sentence as provided by this section at the time a defendant is originally sentenced or at any hearing at which the court modifies or revokes a defendant's probation and at which the defendant is personally present.

(e) The cost of housing convicted felons in the county jail shall be paid by the department of corrections by contract arrangement with the county sheriff. Costs shall include shelter, food, clothing, and necessary medical, dental and hospital care. Subject to legislative appropriation, the department of corrections may contract with county sheriffs to house felons sentenced under this section in county jail.

(f) If any civil action is brought against any sheriff, his under sheriff, deputy, agent or employee, by reason of acts committed or allegedly committed in the performance of necessary

duties in connection with the housing and care of the convicted felons, the state shall indemnify and hold harmless the officers, agents or employees from all civil liability incurred or adjudged except punitive damage awards. Upon request, the state shall provide legal counsel at state expense to assist in the defense of any action referred to in this subsection.

(g) No person convicted of a felony may be sentenced to the county jail under this section unless:

(i) The judge, after consultation with the sheriff, determines that adequate facilities are available and that the jail is not overcrowded; and

(ii) Funding exists to pay the cost of placement, in that:

(A) The legislature has specifically appropriated funds to pay for such placements and unencumbered appropriated funds are available for the proposed placement; or

(B) The county agrees to pay the costs of placement if sufficient funds are not available from state appropriations.

(h) A defendant sentenced under this section is not eligible for parole and is not subject to good time allowances authorized under W.S. 7-13-420. The sentencing court shall continue to have jurisdiction over the defendant during the entire time he is confined in county jail and thereafter while the defendant is serving his term of probation.

(j) If consecutive terms of confinement in the county jail are ordered pursuant to this section they shall not exceed a period of one (1) year.

7-13-108. Sentence to custody of department of corrections.

(a) Unless otherwise specifically provided by statute, any person convicted of a felony and sentenced to a term of imprisonment shall be sentenced to the custody and control of the department of corrections to be incarcerated in a state penal institution or other facility under contract or agreement with the department pursuant to W.S. 25-1-105(e), as directed by the department.

(b) Any contract entered into under W.S. 25-1-105(e) shall be approved as to form and content by the Wyoming attorney general.

7-13-109. Payment of jail costs by inmate.

(a) In addition to any other punishment prescribed by law, the sentencing court may require a person sentenced to confinement in county jail, for any offense, to pay the jail facility the costs of room and board for each day of incarceration, both before and after conviction. The costs for room and board for each day of incarceration shall be an amount equal to the actual cost of the services as determined by the county sheriff. The cost of the services shall be paid to all jail facilities where the inmate may have been held before and after conviction. The costs shall not be assessed if:

(i) The court finds that the defendant has no ability to pay and that no reasonable probability exists that the defendant will have an ability to pay; or

(ii) In the judgment of the court, the costs would impose a manifest hardship on the inmate, or the property of the inmate is needed for the maintenance and support of the inmate's family.

(b) An order to pay room and board costs under this section shall be included as a special order in the judgment of conviction. To satisfy the order, the clerk of the sentencing court, upon request of the sheriff or prosecuting attorney, may issue execution against any assets of the defendant including wages subject to attachment, in the same manner as in a civil action.

(c) Willful failure or refusal to pay costs ordered under this section is punishable as contempt of court.

(d) Any costs paid by a person under this section shall be deposited in the county general fund to help defray the costs the jail facility incurred in providing room and board to the person.

ARTICLE 2
INDETERMINATE SENTENCE

7-13-201. Maximum and minimum term.

Except where a term of life is required by law, or as otherwise provided by W.S. 7-13-101, when a person is sentenced for the commission of a felony, the court imposing the sentence shall not fix a definite term of imprisonment but shall establish a maximum and minimum term within the limits authorized for the statute violated. The maximum term shall not be greater than the maximum provided by law for the statute violated, and the minimum term shall not be less than the minimum provided by law for the statute violated, nor greater than ninety percent (90%) of the maximum term imposed.

ARTICLE 3
PROBATION AND SUSPENSION OF SENTENCE

7-13-301. Placing person found guilty, but not convicted, on probation.

(a) If a person who has not previously been convicted of any felony is charged with or is found guilty of or pleads guilty or no contest to any misdemeanor except any second or subsequent violation of W.S. 31-5-233 or any similar provision of law, or any second or subsequent violation of W.S. 6-2-510(a) or 6-2-511(a) or any similar provision of law, or any felony except murder, sexual assault in the first or second degree, aggravated assault and battery or arson in the first or second degree, the court may, with the consent of the defendant and the state and without entering a judgment of guilt or conviction, defer further proceedings and place the person on probation for a term not to exceed thirty-six (36) months upon terms and conditions set by the court. The terms of probation shall include that he:

(i) Report to the court not less than twice in each year at times and places fixed in the order;

(ii) Conduct himself in a law-abiding manner;

(iii) Not leave the state without the consent of the court;

(iv) Conform his conduct to any other terms of probation the court finds proper; and

(v) Pay restitution to each victim in accordance with W.S. 7-9-101 and 7-9-103 through 7-9-115.

(b) If the court finds the person has fulfilled the terms of probation and that his rehabilitation has been attained to the satisfaction of the court, the court may at the end of thirty-six (36) months, or at any time after the expiration of one (1) year from the date of the original probation, discharge the person and dismiss the proceedings against him.

(c) If the defendant violates a term or condition of probation at any time before final discharge, the court may:

(i) Enter an adjudication of guilt and conviction and proceed to impose sentence upon the defendant if he previously pled guilty to or was found guilty of the original charge for which probation was granted under this section; or

(ii) Order that the trial of the original charge proceed if the defendant has not previously pled or been found guilty.

(d) Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for any purpose.

(e) There shall be only one (1) discharge and dismissal under this section or under any similar section of the probationary statutes of any other jurisdiction.

(f) This section shall not apply to any person holding any class of commercial driver's license pursuant to W.S. 31-7-304(a)(i), nor to the driver of any commercial motor vehicle as defined by W.S. 31-7-102(a)(viii), who is charged with any offense specified in W.S. 31-7-305.

7-13-302. Placing person convicted on probation; suspension of imposition or execution of sentence; imposition of fine; maximum length of probation term.

(a) After conviction, plea of no contest or plea of guilty for any offense, except crimes punishable by death or life imprisonment, and following entry of the judgment of conviction, the court may:

(i) Suspend the imposition or execution of sentence and place the defendant on supervised or unsupervised probation; or

(ii) Impose a fine applicable to the offense and place the defendant on supervised or unsupervised probation.

(b) Unless otherwise authorized by law, no term of probation imposed shall exceed the maximum term of imprisonment allowed by law. Any term of probation imposed under this section for a felony offense shall in no case exceed thirty-six (36) months, except that the judge may impose a term of probation that is not greater than the maximum term of imprisonment authorized by law for the offense for good cause shown upon the record and after considering public safety, rehabilitation, deterrence and any other goals of sentencing.

7-13-303. Investigation preceding probation or suspension of sentence.

(a) When directed by the court, the district attorney, a probation and parole agent as defined in W.S. 7-13-401 or, in the case of a minor, a counselor as defined by W.S. 5-3-501(a)(ii) or the department of family services shall investigate and report to the court in writing:

(i) The circumstances of the offense;

(ii) The criminal record, social history and present conditions of the defendant;

(iii) If practicable, the findings of a physical and mental examination of the defendant;

(iv) If practicable, statements from the victim;

(v) A summary of the impact of the offense on the victim;

(vi) The results of a validated risk and need assessment.

(b) Unless the court directs otherwise, no defendant charged with a felony or misdemeanor shall be placed on probation, placed in an intensive supervision program established under W.S. 7-13-1102 or released under suspension of sentence until the report of the investigation under this section is presented to and considered by the court. If the defendant is sentenced to the custody of the department of corrections to serve a term of incarceration in a state penal institution, a copy of the report of the investigation if

completed shall be sent to the department of corrections at the time of sentencing. The clerk of court shall forward copies of the report, if completed, to the department of corrections, together with copies of all orders entered by the court.

(c) The court may, in its discretion, dispense with the investigation and preparation of a report required by this section or may limit the scope of the investigation and report to circumstances and conditions the court deems relevant to its sentencing determination.

7-13-304. Imposition or modification of conditions; performance of work by defendant.

(a) The court may impose, and at any time modify, any condition of probation or suspension of sentence. The court may not impose new custodial restrictions on liberty unless in response to a compliance violation, a new violation of law or absconding from supervision and only after providing notice and a hearing if required under W.S. 7-13-1803.

(b) As a condition of any probation, the court, subject to W.S. 7-16-101 through 7-16-104, may order the defendant to perform work for a period not exceeding the maximum probation period.

(c) As a condition of probation or suspension of sentence, the court may require a defendant who is a minor to successfully complete a juvenile service program offered under the Community Juvenile Services Act.

(d) As a condition of probation or suspension of sentence, the court may require a defendant to complete successfully a court supervised treatment program qualified under W.S. 7-13-1601 through 7-13-1615, a 24/7 sobriety program under W.S. 7-13-1701 through 7-13-1710, or both.

7-13-305. Determination, continuance or extension; revocation proceedings.

(a) The period of probation or suspension of sentence under W.S. 7-13-302 shall be determined by the court and may be reduced, continued or extended. Any term of probation including any continuations or extensions shall not exceed the maximum term of probation authorized under W.S. 7 13 302(b), except that the judge may impose a term of probation that is not greater than the maximum term of imprisonment authorized by law for the

offense for good cause shown upon the record and after considering public safety, rehabilitation, deterrence and any other goals of sentencing. In determining the period of probation or a modification of an existing probation, the court may consider, but is not limited to the following factors:

(i) Whether the defendant has stable employment;

(ii) Whether the defendant has positive community support;

(iii) Whether the defendant has positive familial support;

(iv) Whether the defendant has reasonably attended to spousal or parental responsibilities and whether the terms of probation assist or hinder the defendant in discharging those responsibilities;

(v) Whether the defendant has made progress in affirmatively addressing any alcohol or substance abuse issues. For the purposes of this paragraph, relapse alone does not prevent the court from determining the defendant has made progress in addressing his alcohol or substance use issues;

(vi) The nature and seriousness of the underlying crime;

(vii) The risk posed by the defendant to the community;

(viii) The risk of reoffense as determined by a validated risk assessment tool utilized by the department of corrections.

(b) Upon the satisfactory fulfillment of the conditions of suspension of sentence or probation under W.S. 7-13-302 the court shall enter an order discharging the defendant.

(c) For a violation of a condition of probation occurring during the probationary period, revocation proceedings may be commenced at any time during the period of suspension of sentence or probation under W.S. 7-13-302, or within thirty (30) days thereafter, in which case the court may issue a warrant and cause the defendant to be arrested. If after hearing the court determines that the defendant violated any of the terms of probation or suspension of sentence, the court may proceed to

deal with the case as if no suspension of sentence or probation had been ordered.

(d) The time for commencing revocation proceedings shall be automatically extended for any period of time in which the probationer is incarcerated outside this state during the probationary period for the conviction of an offense which is a violation of the conditions of probation, unless the probationer has made a valid request for final disposition under the interstate agreement on detainers, W.S. 7-15-101 through 7-15-105.

7-13-306. Payment of fine in installments.

When imposing a fine and also placing the defendant on probation, the district judge may permit the fine to be paid in installments over a reasonable period of time.

7-13-307. Expungement of criminal record.

Nothing in W.S. 7-13-301 through 7-13-306 shall be construed to authorize the court to expunge the record of a person charged with or convicted of a criminal offense.

ARTICLE 4
PROBATION AND PAROLE GENERALLY

7-13-401. Definitions; creation of board; officers; compensation; hearing panels; meetings.

(a) As used in W.S. 7-13-401 through 7-13-424:

(i) "Board" means the state board of parole;

(ii) "Conditional release" means any form of release by an institution or by a court, other than parole or probation, which is subject to conditions imposed by the institution or court, but excludes release on bail;

(iii) "Conditional releasee" means an individual granted conditional release by an institution or court;

(iv) "Department" means the department of corrections;

(v) "Director" means the director of the department of corrections;

(vi) "Institution" includes the Wyoming state penitentiary, state penitentiary farms and camps, Wyoming women's center, Wyoming state hospital and any other state penal institution including a correctional facility operated by a private entity pursuant to W.S. 7-22-102;

(vii) "Parole" means permission to leave the confines of the institution in which a person is confined under specified conditions, but does not operate as a discharge of the person;

(viii) "Parolee" means a prisoner or an inmate of an institution who has been granted parole;

(ix) "Peace officer" means as defined by W.S. 7-2-101;

(x) "Probation" means a sentence not involving confinement which imposes conditions and retains authority in the sentencing court to modify the conditions of the sentence or to resentence the offender if he violates the conditions;

(xi) "Probationer" means a defendant granted probation by the sentencing court;

(xii) "Executive director" means the executive director of the board;

(xiii) "Field services administrator" means the administrator for the department of corrections division of field services;

(xiv) "Probation and parole agent" means an employee of the department of corrections, division of field services, who supervises a parolee or probationer;

(xv) "Compliance violation" means a violation of a condition of probation, parole or conditional release but shall not include:

(A) An arrest for a new misdemeanor or felony offense; or

(B) Absconding from supervision, which includes the defendant, probationer or parolee deliberately making his whereabouts unknown to his probation and parole agent, the department or court or failing to report for the purpose of

avoiding supervision, where reasonable efforts by the probation and parole agent to locate the defendant, probationer or parolee have been unsuccessful.

(b) There is created the state board of parole which consists of seven (7) members appointed by the governor with the advice and consent of the senate, in accordance with W.S. 28-12-101 through 28-12-103. Not more than seventy-five percent (75%) of the members shall be of the same political party. Members of the board shall be appointed for six (6) year terms. The governor may remove any board member as provided in W.S. 9-1-202.

(c) Annually at the first meeting of the board, the members shall elect from their number a chairman and vice-chairman. Any vacancy caused by death, resignation or disqualification of a member of the board shall be filled by the governor for the remainder of the unexpired term of the member. Any vacancy occurring between sessions of the legislature may be filled by the governor in accordance with W.S. 28-12-101(b).

(d) When engaged in the performance of their duties, members of the board shall receive salary in the amount paid to members of the Wyoming legislature and travel expenses and per diem in the same manner and amount as employees of the state.

(e) The board shall meet at least quarterly to conduct the business specified in subsection (f) of this section. Except as otherwise provided by subsection (f) of this section, four (4) members constitute a quorum. All matters shall be decided by a majority vote of those in attendance. The board may meet as often as necessary for the administration and conduct of its other business.

(f) Three (3) or more members of the board may constitute a hearing panel empowered to review applications for parole, grant paroles or revoke paroles. Fewer than three (3) members of the board, as may be provided by rule of the board, may withdraw or revoke good time, restore or reinstate good time, make recommendations to the governor to grant commutations of sentences and review inmate matters, other than the grant or denial of parole, brought before the board. A decision by a majority of the members of a panel under this subsection is the decision of the board.

(g) The board may employ an executive director who shall serve at the pleasure of the board as provided by appropriation

of the legislature. The executive director and other staff members shall perform duties as may be assigned by the board.

7-13-402. General powers and duties of board; eligibility for parole; immunity.

(a) The board may grant a parole to any person imprisoned in any institution under sentence, except a sentence of life imprisonment without parole or a life sentence, ordered by any district court of this state, provided the person has served the minimum term pronounced by the trial court less good time, if any, granted under rules promulgated pursuant to W.S. 7-13-420. The board may also grant parole to a person serving a sentence for an offense committed before the person reached the age of eighteen (18) years of age as provided in W.S. 6-10-301(c).

(b) A prisoner is not eligible for parole on a sentence if, while serving that sentence, he has:

(i) Made an assault with a deadly weapon upon any officer, employee or inmate of any institution; or

(ii) Escaped, attempted to escape or assisted others to escape from any institution.

(c) In granting a parole the board shall fix terms and conditions it deems proper to govern the conduct of the parolee while the parole is in effect. The terms and conditions may be special in each case or they may be prescribed by general rules and regulations of the board, or both.

(d) No person granted a parole shall be released from an institution until he has signed an agreement that he will comply with the terms and conditions under which he has been released and abide by the laws of the state. In addition, no person shall be granted a parole until the board makes a reasonable effort to notify victims who have registered to receive notification pursuant to W.S. 1-40-204(d) of the hearing and provides a reasonable opportunity for the victims to provide written comments to the board relative to the parole.

(e) The board may adopt reasonable rules and regulations necessary to carry out the functions assigned to the board by W.S. 7-13-401 through 7-13-424 including rules relating to:

(i) The conduct of proceedings, meetings, hearings and interviews;

(ii) The general conditions under which parole may be granted and revoked;

(iii) Parole applications and procedures, including the selection of hearing panels as provided by W.S. 7-13-401(f);

(iv) Repealed by Laws 1992, ch. 25, § 4.

(v) Procedures to allow victims opportunity to comment on parole applications; and

(vi) Notification to victims of the pending release of prisoners.

(f) The promulgation of substantive rules by the board, the conduct of its hearings and its final decisions are specifically exempt from all provisions of the Wyoming Administrative Procedure Act including the provisions for judicial review under W.S. 16-3-114 and 16-3-115. The board's rules and regulations shall be filed in the office of the secretary of state.

(g) Notwithstanding W.S. 1-39-101 through 1-39-119, the board and its members are immune from any liability, either as a board or individually, for any actions, inactions or omissions by the board or any member thereof, pursuant to W.S. 7-13-401 through 7-13-424.

(h) Repealed by Laws 2015, ch. 163, § 2.

(j) The board may order the arrest and return to the custody of the department of any parolee who has absconded from supervision, been charged with or convicted of a crime while on parole or committed an alleged violation of parole for which probable cause has been established through a hearing, or waiver thereof, pursuant to W.S. 7-13-408. The written order of the board shall be sufficient warrant for any peace officer to return a parolee to custody. All peace officers shall execute any order of the board issued under this subsection. A parolee taken into custody under the order of the board is not subject to release on bail.

7-13-403. Custody of parolee; return upon violation.

(a) A parolee is in the legal custody and under the control of the board and may be returned to the custody of the department for violation of a condition of his parole.

(b) Unless otherwise ordered by the board or when the parole violator is ordered to complete a sanction under W.S. 7-13-1801 through 7-13-1803, a parole violator shall be returned to the custody of the department to serve the remainder of the original sentence.

(c) The board shall consider imposing a sanction under W.S. 7-13-1801 through 7-13-1803 before ordering a parole violator to be returned to the custody of the department to serve the remainder of the original sentence.

7-13-404. Computing remainder of sentence for parole violator.

In computing the remainder of the sentence to be served by a parole violator, credit shall be awarded toward his original sentence for any portion of the time that the person has not violated a condition of parole between his release on parole and his return to the institution unless the board directs otherwise.

7-13-405. Field services administrator; hiring of agents.

(a) The department has general supervisory authority over state parolees and over probationers for whom the sentencing court requests supervision under W.S. 7-13-410.

(b) The director shall appoint a field services administrator. The department shall:

(i) Keep records of all persons placed on parole or probation under the supervision of the department;

(ii) Cooperate with probation and parole officers of other states in the supervision of parolees and probationers from other states; and

(iii) Consult and cooperate with the courts and institutions of the state to develop plans and procedures to administer the probation and parole laws of the state.

(iv) Repealed by Laws 1992, ch. 25, § 4.

(c) The field services administrator, with the approval of the director, shall coordinate the hiring of probation and parole agents.

(d) Repealed by Laws 1992, ch. 25, § 4.

(e) Repealed by Laws 1992, ch. 25, § 4.

(f) Subject to legislative appropriation, the department may, by negotiation without competitive bid or by competitive bidding, contract with any governmental or nongovernmental entity to provide services, other than direct supervision and enforcement, required to carry out the provisions of this article.

7-13-406. Offices.

Offices for probation and parole agents shall be maintained throughout the state as determined by the department.

7-13-407. Duties of probation and parole agents.

(a) Under direction and supervision of the director, probation and parole agents shall:

(i) Except as otherwise directed by the director, devote full time to the performance of their duties in carrying out the provisions of W.S. 7-9-104, 7-9-107, 7-13-303, 7-13-401 through 7-13-424, 7-13-1101 through 7-13-1105, 7-13-1601 through 7-13-1615, 7-13-1801 through 7-13-1803 and 35-7-1043;

(ii) Investigate all cases referred by any court, the department or the board, and report to the court, department or board in writing;

(iii) Furnish to each person released on probation, parole or conditional release under his supervision a written statement of the conditions of the probation, parole or conditional release and instruct him regarding the conditions;

(iv) Supervise the conduct of each person on probation if requested by the court granting probation, and of each person on parole or conditional release through personal visits, reports and other appropriate means, and report in writing as often as required by the court, department or board;

(v) Use all practicable and suitable methods, not inconsistent with the conditions imposed by the court, department or board and including the use of incentives and sanctions under W.S. 7-13-1801 through 7-13-1803, to aid and encourage persons on probation, parole or conditional release to bring about improvement in their conditions and conduct;

(vi) Perform other duties as directed by the director.

7-13-408. Probation, parole and conditional release administrative jail or adult community correction program sanction and revocation hearing procedures.

(a) The probation and parole agent shall notify the department and the board or the appropriate court if it is determined consideration should be given to retaking or reincarcerating a person under the supervision of the department who has violated a condition of his probation, parole or other conditional release and is subject to revocation of supervision. Prior to notification, a hearing shall be held in accordance with this section within a reasonable time, unless a hearing is waived by the probationer, parolee or conditional releasee. In the case of a parolee for whom the violation is based on a new felony conviction, a preliminary hearing is not required under this section. In the case of a probationer, the hearing is only required when the probationer has been reincarcerated and a legal warrant has not been obtained within ten (10) days. As soon as practicable, following termination of any hearing, the appropriate officer or agent shall report to the department and the court or board, furnish a copy of the hearing record, report on the prior use of incentives and sanctions under W.S. 7-13-1801 through 7-13-1803 for the probationer, parolee or conditional releasee and make recommendations regarding the disposition to be made of the probationer, parolee or conditional releasee. Compliance violations not leading to retaking or reincarceration shall be sanctioned under W.S. 7-13-1801 and 7-13-1802. Pending any proceeding pursuant to this section, the appropriate agent may take custody of and detain the probationer, parolee or conditional releasee involved for a reasonable period of time prior to the hearing. If it appears to the hearing officer or agent that retaking or reincarceration is likely to follow, the agent may take custody of and detain the probationer, parolee or conditional releasee for a reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.

(b) Any hearing pursuant to this section or W.S. 7-13-1803 may be before the field services administrator, his designated hearing officer or any other person authorized pursuant to the laws of this state to hear cases of alleged probation, parole or conditional release violations, except that no hearing officer shall be the person making the allegation of violation. In cases of alleged parole violations by persons who were paroled by the board, hearings pursuant to this section shall be before the executive director of the board or his designated hearing officer.

(c) With respect to any hearing pursuant to this section, the probationer, parolee or conditional releasee:

(i) Shall have reasonable notice in writing of the nature and content of the allegations to be made including notice that the purpose of the hearing is to determine whether there is probable cause to believe that he has committed a violation that may lead to a revocation of probation, parole or conditional release;

(ii) Shall be permitted to consult with any persons whose assistance he reasonably desires, prior to the hearing;

(iii) Shall have the right to confront and examine any person who has made allegations against him, unless the hearing officer determines that the confrontation would present a substantial present or subsequent danger of harm to the person;

(iv) May admit, deny or explain the violation alleged and may present proof, including affidavits and other evidence, in support of his contentions.

(d) A record of the proceedings under this section shall be made and preserved either by stenographic means or through the use of a recording machine.

(e) Repealed by Laws 2019, ch. 116, § 3.

7-13-409. Disclosure of information and data.

All information and data obtained in the discharge of official duties by probation and parole agents is privileged information and shall not be disclosed directly or indirectly to anyone other than to the judge, the department or to others entitled to

receive reports unless and until otherwise ordered by the judge, board or department.

7-13-410. Notice of probation order; request for probation supervision or report.

(a) The clerk of the court granting probation to a person convicted of a crime shall send a certified copy of the order to the department of corrections or, in the case of a juvenile, to the department of family services.

(b) At the time of granting probation or at any later time, the court may request the department to provide supervision of the probationer. The probation and parole agents will not be required to supervise or report on a person granted probation unless requested to do so by the court granting probation. The court shall not request supervised probation for a misdemeanor offense unless the court makes findings showing a particular need for supervision of the offender.

7-13-411. Apprehension of violators.

(a) A probation and parole agent may, in the performance of his duties:

(i) Repealed By Laws 2011, Ch. 30, § 2.

(ii) Repealed By Laws 2011, Ch. 30, § 2.

(iii) Request a peace officer to arrest without warrant any probationer or parolee if the probation and parole agent has probable cause to believe the person has violated the conditions of his probation or parole. A person arrested under this paragraph may be detained for a reasonable period of time until a legal warrant is obtained or pending further proceedings under W.S. 7-13-408.

(b) A peace officer may arrest without warrant an alleged probation or parole violator after receiving a written statement from a probation and parole agent setting forth that the probationer or parolee has, in the judgment of the probation and parole agent, violated the conditions of his probation or parole. A peace officer may also arrest without warrant an alleged probation or parole violator at any time the peace officer has probable cause to believe the probationer or parolee has violated the conditions of his probation or parole. A person arrested under this subsection may be detained for a

reasonable period of time until a legal warrant is obtained or pending further proceedings under W.S. 7-13-408.

(c) A peace officer may take into custody and hold a person granted parole or on probation from another state when requested to do so by the probation and parole agent or the proper authorities from the other state.

(d) A parole or probation violator apprehended shall be accepted and held in the county jail at the request of the probation and parole agent.

(e) Any expense incurred in holding a parolee in county jail at the request of a probation and parole agent or pending proceedings under W.S. 7-13-408, including costs of shelter, food, clothing, and necessary medical, dental and hospital care and any expense for transporting the parolee shall be paid by the department unless there are local charges pending. The per diem cost of holding parolees under this section shall be agreed upon by the sheriff and the department, but shall not exceed the amount established by the department based on funds appropriated to the department for housing of offenders.

7-13-412. Repealed By Laws 2009, Ch. 2, § 1.

7-13-413. Repealed By Laws 2009, Ch. 2, § 1.

7-13-414. Repealed By Laws 2009, Ch. 2, § 1.

7-13-415. Repealed By Laws 2009, Ch. 2, § 1.

7-13-416. Repealed By Laws 2009, Ch. 2, § 1.

7-13-417. Repealed By Laws 2009, Ch. 2, § 1.

7-13-418. Selection, training and powers of local volunteer; compensation.

(a) In order to further the objectives of W.S. 7-13-401 through 7-13-424, the field services administrator may select, organize and train local volunteer citizens who, acting under his supervision, may:

(i) Advise and assist probation and parole agents with special reference to vocational and technical education services for probationers and parolees;

(ii) Maintain liaison with all appropriate municipal, county, state and federal agencies whose services aid in the reintegration of offenders into society;

(iii) Assist in programs relating to the social, moral and psychological needs of persons released under probation and parole supervision;

(iv) Not receive compensation from the state. At the discretion of the field services administrator, however, volunteers may be reimbursed for necessary and actual expenses incurred in performing the duties described in this section.

7-13-419. Limitations on powers of volunteers.

Volunteers do not have power of arrest nor the right to execute criminal process.

7-13-420. Good time allowances.

(a) The governor, after consultation with the board and the department, shall adopt rules and regulations to establish a system of good time and special good time allowances for inmates of and parolees from any state penal institution, any institution which houses Wyoming inmates pursuant to W.S. 7-3-401 or any correctional facility operated pursuant to a contract with the state under W.S. 7-22-102 or inmates or parolees transferred to a community correctional facility pursuant to W.S. 7-18-109 or 7-18-115. The rules may provide either for good time to be deducted from the maximum sentence or for good time to be deducted from the minimum sentence imposed by the sentencing court, or both, and may provide for the removal of previously earned good time allowances and the withholding of future good time allowances.

(b) The rules and regulations adopted by the governor as provided by this section shall be filed in the office of the secretary of state but shall at all times be considered rules relating to the internal management of state penal institutions and not affecting private rights of inmates. The granting, refusal to grant, withholding or restoration of good time or special good time allowances to inmates shall be a matter of grace and not that of right of inmates.

(c) The court may adjust the period of a probationer’s supervised probation on the recommendation of the probation and parole agent, which shall be based on the probationer's positive

progression towards the goals of the case plan as well as the overall compliance with the conditions imposed by the court.

(d) The rules established under subsection (a) of this section shall:

(i) Provide that good time may be awarded for time the sentencing court awards as jail credit in the judgment and sentence if the inmate or parolee would have otherwise received good time credit if the inmate or parolee had served that time in an institution eligible under subsection (a) of this section;

(ii) Provide that good time may be awarded for any time an inmate or parolee spends in custody from the date of sentencing until admission to an institution eligible under subsection (a) of this section;

(iii) Require the department to consult with the county sheriff to determine whether good time should be awarded to an inmate or parolee before awarding good time for jail credit under this subsection.

7-13-421. Restitution as condition of parole.

(a) Repealed By Laws 2011, Ch. 30, § 2.

(b) The board shall provide for restitution in the amount determined by the court pursuant to W.S. 7-9-103 unless the board finds the parolee is not reasonably capable of making the payments, in which case the board may modify the amount of restitution to be paid, taking into account the factors enumerated in W.S. 7-9-106.

(i) Repealed By Laws 2011, Ch. 30, § 2.

(ii) Repealed By Laws 2011, Ch. 30, § 2.

(iii) Repealed By Laws 2011, Ch. 30, § 2.

(iv) Repealed By Laws 2011, Ch. 30, § 2.

(c) If the parolee fails to pay the restitution as provided by this section the board may:

(i) Modify the amount of the restitution;

(ii) Repealed By Laws 2011, Ch. 30, § 2.

(iii) Revoke the parole.

(d) The board may waive the payment of some or all of the restitution as a condition of parole if it finds the payment of some or all of the restitution will work an undue hardship on the parolee or his family. Victims who have requested to receive notification pursuant to W.S. 1-40-204(f) of information authorized to be released pursuant to W.S. 1-40-204(d) shall be given notice and an opportunity to be heard prior to the board making a decision to waive some or all of the restitution under this subsection.

(e) Nothing in this section shall limit or impair the rights of victims to sue and recover damages from the parolee in a civil action. However, any restitution payment by the parolee to a victim shall be set off against any judgment in favor of the victim in a civil action arising out of the same facts or event.

(f) The fact that restitution was required or made under this section shall not be admissible as evidence in a civil action unless offered by the parolee.

(g) In the event a victim is not satisfied with the restitution plan required or modified by the board, the victim's exclusive remedies are a civil action against the parolee or execution on the restitution order pursuant to W.S. 7-9-103(d).

(h) The board may require payment of the following obligations as conditions of parole if it finds the parolee is reasonably capable of making the payments, taking into account the factors enumerated in W.S. 7-9-106(a)(iii):

(i) Support of dependents of the parolee;

(ii) Court ordered fines, reimbursement for the services of the public defender or court appointed counsel, the surcharge imposed under W.S. 1-40-119 and the surcharge imposed under W.S. 7-13-1616;

(iii) Costs or partial costs of evaluations, treatment, services, programs or assistance the parolee is receiving;

(iv) Cost or partial costs of supervision of the parolee imposed under W.S. 7-13-1102(a)(iii).

7-13-422. Short title.

This act may be cited as "The Interstate Compact for Adult Offender Supervision."

7-13-423. Compact provisions generally.

The interstate compact for the supervision of adult offenders as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows.

Article I

Purpose

(a) The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that congress, by enacting the Crime Control Act, 4 U.S.C. § 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the interstate commission created hereunder, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states. In addition, this compact will: create an interstate commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state

lines; establish a system of uniform data collection, access to information on active cases, subject to state laws, by authorized criminal justice officials and regular reporting of compact activities to heads of state councils, state executive, judicial and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

(b) The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of state laws, this compact and bylaws and rules promulgated hereunder. It is the policy of the compacting states that the activities conducted by the interstate commission created herein are the formation of public policies and are therefore public business.

Article II

Definitions

(a) As used in this compact, unless the context clearly requires a different construction:

(i) "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute or operation of law;

(ii) "By-laws" mean those by-laws established by the interstate commission for its governance or for directing or controlling the interstate commission's actions or conduct;

(iii) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact;

(iv) "Compacting state" means any state which has enacted the enabling legislation for this compact;

(v) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact;

(vi) "Interstate commission" means the interstate commission for adult offender supervision established by this compact;

(vii) "Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner;

(viii) "Noncompacting state" means any state which has not enacted the enabling legislation for this compact;

(ix) "Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies;

(x) "Person" means any individual, corporation, business enterprise or other legal entity, either public or private;

(xi) "Rules" means acts of the interstate commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states;

(xii) "State" means a state of the United States, the District of Columbia and any other territorial possessions of the United States; and

(xiii) "State council" means the resident members of the state council for interstate adult offender supervision created by each state under Article III of this compact.

Article III

The Compact Commission

(a) The compacting states hereby create the "interstate commission for adult offender supervision." The interstate commission shall be a body corporate and joint agency of the compacting states. The interstate commission shall have all the

responsibilities, powers and duties set forth herein, including the power to sue and be sued and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(b) The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state.

(c) In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations; such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All noncommissioner members of the interstate commission shall be ex-officio (nonvoting) members. The interstate commission may provide in its by-laws for such additional, ex-officio, nonvoting members as it deems necessary.

(d) Each compacting state represented at any meeting of the interstate commission is entitled to one (1) vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the interstate commission. The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty-seven (27) or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(e) The interstate commission shall establish an executive committee which shall include commission officers, members and others as shall be determined by the by-laws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking and amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and as directed by the interstate commission and performs other duties as directed by the interstate commission or set forth in the by-laws.

Article IV

The State Council

Each member state shall create a state council for interstate adult offender supervision which shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from that state. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the interstate commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership shall consist of one (1) member of the legislature appointed on an alternating basis by the president of the senate and speaker of the house, with the president appointing the first member. The judicial planning and administrative council shall appoint one (1) member. There shall be one (1) representative of victims groups and two (2) members from the executive branch appointed by the governor. The appointments shall be made for two (2) year terms beginning on the enactment of the interstate compact for adult offender supervision into law by the thirty-fifth jurisdiction or July 1, 2001, whichever date occurs later. The department of corrections shall provide support for the council and expenses as provided for in W.S. 9-3-102 and 9-3-103. Each compacting state retains the right to determine the qualifications of the compact administrator who shall be appointed by the governor. In addition to appointment of its commissioner to the national interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

Article V

Powers and Duties of the Interstate Commission

(a) The interstate commission shall have the following powers:

(i) To adopt a seal and suitable by-laws governing the management and operation of the interstate commission;

(ii) To promulgate rules which shall have the force and effect of statutory law and shall be binding in the

compacting states to the extent and in the manner provided in this compact;

(iii) To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any by-laws adopted and rules promulgated by the compact commission;

(iv) To enforce compliance with compact provisions, interstate commission rules and by-laws, using all necessary and proper means, including but not limited to, the use of judicial process;

(v) To establish and maintain offices;

(vi) To purchase and maintain insurance and bonds;

(vii) To borrow, accept or contract for services of personnel, including but not limited to, members and their staffs;

(viii) To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;

(ix) To elect or appoint such officers, attorneys, employees, agents or consultants and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;

(x) To accept any and all donations and grants of money, equipment, supplies, materials and services and to receive, utilize and dispose of same;

(xi) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal or mixed;

(xii) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

(xiii) To establish a budget and make expenditures and levy dues as provided in Article X of this compact;

(xiv) To sue and be sued;

(xv) To provide for dispute resolution among compacting states;

(xvi) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact;

(xvii) To report annually to the legislatures, governors, judiciary and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission;

(xviii) To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity; and

(xix) To establish uniform standards for the reporting, collecting and exchanging of data.

Article VI

Organization and Operation of the Interstate Commission

(a) Section A. By-laws. The interstate commission shall, by a majority of the members, within twelve (12) months of the first interstate commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to: establishing the fiscal year of the interstate commission; establishing an executive committee, such other committees as may be necessary and providing reasonable standards and procedures:

(i) For the establishment of committees;

(ii) Governing any general or specific delegation of any authority or function of the interstate commission;

(iii) Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each such meeting; establishing the titles

and responsibilities of the officers of the interstate commission; providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the by-laws shall exclusively govern the personnel policies and programs of the interstate commission;

(iv) Providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;

(v) Providing transition rules for "start up" administration of the compact; and

(vi) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(b) Section B. Officers and staff:

(i) The interstate commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the by-laws. The chairperson or, in his or her absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission;

(ii) The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

(c) Section C. Corporate records of the interstate commission. The interstate commission shall maintain its corporate books and records in accordance with the by-laws.

(d) Section D. Qualified immunity, defense and indemnification:

(i) The members, officers, executive director and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person. The interstate commission shall defend the commissioner of a compacting state, or his representatives or employees or the interstate commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities; provided, that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person;

(ii) The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

Article VII

Activities of the Interstate Commission

(a) The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.

(b) Except as otherwise provided in this compact and unless a greater percentage is required by the by-laws, in order to constitute an act of the interstate commission, such act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

(c) Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

(d) The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(e) The interstate commission's by-laws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(f) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the "Government in Sunshine Act", 5 U.S.C. §

552(b), as may be amended. The interstate commission and any of its committees may close a meeting to the public where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

(i) Relate solely to the interstate commission's internal personnel practices and procedures;

(ii) Disclose matters specifically exempted from disclosure by statute;

(iii) Disclose trade secrets or commercial or financial information which is privileged or confidential;

(iv) Involve accusing any person of a crime or formally censuring any person;

(v) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(vi) Disclose investigatory records compiled for law enforcement purposes;

(vii) Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

(viii) Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; or

(ix) Specifically relate to the interstate commission's issuance of a subpoena or its participation in a civil action or proceeding.

(g) For every meeting closed pursuant to this provision, the interstate commission's chief legal officer shall publicly certify that, in his opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call

vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(h) The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its by-laws and rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

Article VIII

Rulemaking Functions of the Interstate Commission

(a) The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states;

(b) Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. § 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, § 1 et seq., as may be amended (hereinafter "APA"). All rules and amendments shall become binding as of the date specified in each rule or amendment.

(c) If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

(d) When promulgating a rule, the interstate commission shall:

(i) Publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule:

(A) Allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

(B) Provide an opportunity for an informal hearing; and

(C) Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

(e) Not later than sixty (60) days after a rule is promulgated, any interested person may file a petition in the United States district court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence, (as defined in the APA), in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(f) Subjects to be addressed within twelve (12) months after the first meeting must at a minimum include:

(i) Notice to victims and opportunity to be heard;

(ii) Offender registration and compliance;

(iii) Violations/returns;

(iv) Transfer procedures and forms;

(v) Eligibility for transfer;

(vi) Collection of restitution and fees from offenders;

(vii) Data collection and reporting;

(viii) The level of supervision to be provided by the receiving state;

(ix) Transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and

(x) Mediation, arbitration and dispute resolution.

(g) The existing rules governing the operation of the previous compact superceded by this act shall be null and void twelve (12) months after the first meeting of the interstate commission created hereunder.

(h) Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule.

Article IX

Oversight, Enforcement and Dispute Resolution by the Interstate Commission

(a) Section A. Oversight:

(i) The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states;

(ii) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.

(b) Section B. Dispute resolution:

(i) The compacting states shall report to the interstate commission on issues or activities of concern to them and cooperate with and support the interstate commission in the discharge of its duties and responsibilities;

(ii) The interstate commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and noncompacting states;

(iii) The interstate commission shall enact a by-law or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) Section C. Enforcement.

The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XII, section B, of this compact.

Article X

Finance

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(b) The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

(c) The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its by-laws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

Article XI

Compacting States, Effective Date and Amendment

(a) Any state, as defined in article II of this compact, is eligible to become a compacting state. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five (35) of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of nonmember states or their designees will be invited to participate in interstate commission activities on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

(b) Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Article XII

Withdrawal, Default, Termination and Judicial Enforcement

(a) Section A. Withdrawal:

(i) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided, that a compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute which enacted the compact into law;

(ii) The effective date of withdrawal is the effective date of the repeal;

(iii) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof;

(iv) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal;

(v) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(b) Section B. Default:

(i) If the interstate commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the by-laws or any duly promulgated rules, the interstate commission may impose any or all of the following penalties:

(A) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission;

(B) Remedial training and technical assistance as directed by the interstate commission; suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature and the state council.

(ii) The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission by-laws or duly promulgated rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension. Within sixty (60) days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or chief judicial officer, the

majority and minority leaders of the defaulting state's legislature and the state council of such termination;

(iii) The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination;

(iv) The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

(c) Section C. Judicial enforcement. The interstate commission may, by majority vote of the members, initiate legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

(d) Section D. Dissolution of compact:

(i) The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one (1) compacting state;

(ii) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, the business and affairs of the interstate commission shall be wound up and any surplus funds shall be distributed in accordance with the by-laws.

Article XIII

Severability and Construction

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed

unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally constructed to effectuate its purposes.

Article XIV

Binding Effect of Compact and Other Laws

(a) Section A. Other laws:

(i) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact;

(ii) All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

(b) Section B. Binding effect of the compact:

(i) All lawful actions of the interstate commission, including all rules and by-laws promulgated by the interstate commission, are binding upon the compacting states;

(ii) All agreements between the interstate commission and the compacting states are binding in accordance with their terms;

(iii) Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation;

(iv) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and the obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

7-13-424. Medical parole; conditions.

(a) Notwithstanding any other provision of law restricting the grant of parole, except for inmates sentenced to death or life imprisonment without parole, the board may grant a medical parole to any inmate meeting the conditions specified in this section. The board shall consider a medical parole upon receipt of written certification by a licensed treating physician that, within a reasonable degree of certainty, one (1) of the following circumstances exist:

(i) The inmate has a serious incapacitating medical need which requires treatment that cannot reasonably be provided while confined in a state correctional facility;

(ii) The inmate is incapacitated by age to the extent that deteriorating physical or mental health substantially diminishes the ability of the inmate to provide self-care within the environment of a correctional facility;

(iii) The inmate is permanently physically incapacitated as the result of an irreversible injury, disease or illness which makes significant physical activity impossible, renders the inmate dependent on permanent medical intervention for survival or confines the inmate to a bed, wheelchair or other assistive device where his mobility is significantly limited; or

(iv) The inmate suffers from a terminal illness caused by injury or disease which is predicted to result in death within twelve (12) months of the application for parole.

(b) The board may only grant a medical parole if it first determines:

(i) That, based on a review of all available information, one (1) or more of the conditions specified in subsection (a) of this section exists;

(ii) That the inmate is not likely to abscond or violate the law if released;

(iii) That living arrangements are in place in the community and sufficient resources are available to meet the inmate's living and medical needs and expenses; and

(iv) That the inmate does not have a medical condition that would endanger public health, safety or welfare if the inmate were released, or that the inmate's proposed

living arrangements would protect the public health, safety or welfare from any threat of harm the inmate's medical condition may pose.

(c) Upon the board's request, an independent medical evaluation by a licensed physician shall be conducted, provided to the board and paid for by the department.

(d) The board shall provide the prosecuting attorney and the sentencing court with prior notice of, and the opportunity to provide input regarding, a medical parole hearing for an inmate who is otherwise ineligible for parole.

(e) The board shall impose terms and conditions of parole as it deems necessary, including but not limited to requiring periodic medical progress reports at intervals of not more than six (6) months, in granting a medical parole. A medical parole may be revoked if the parolee violates a condition of parole or if the medical condition which was the basis for the grant of parole no longer exists or has been ameliorated to the extent that the justification for medical parole no longer exists.

ARTICLE 5
CONTINUATION OF EMPLOYMENT DURING PROBATION

7-13-501. Power of court to allow; confinement when not working.

As a condition of probation in any misdemeanor case, or as a condition of probation granted under W.S. 7-13-107(b)(ii), the sentencing court may allow an employed defendant to continue to work at his employment and provide that when the defendant is not employed, and between the hours or periods of his employment, he shall be confined in the county jail. As a condition of special treatment under this section, the court shall require the defendant to pay a reasonable amount for room and board as determined by the sheriff.

7-13-502. Repealed by Laws 1995, ch. 122, § 3.

7-13-503. Work arrangement in another county.

The court may by order authorize the sheriff of the county in which probation is granted to arrange with another sheriff for the defendant granted probation under W.S. 7-13-501 to work at his employment in the other county, and to be confined in the

county jail of the other county between the hours or periods when he is not working at his employment.

7-13-504. Persons committed for contempt of court.

A person committed to the county jail for contempt of court may be granted probation to continue his employment as provided by W.S. 7-13-501.

ARTICLE 6
PERSONS CONVICTED OF CERTAIN SEX CRIMES

7-13-601. Repealed by Laws 1987, ch. 41, § 1.

7-13-602. Repealed by Laws 1987, ch. 41, § 1.

7-13-603. Repealed by Laws 1987, ch. 41, § 1.

7-13-604. Repealed by Laws 1987, ch. 41, § 1.

7-13-605. Repealed by Laws 1987, ch. 41, § 1.

7-13-606. Repealed by Laws 1987, ch. 41, § 1.

7-13-607. Repealed by Laws 1987, ch. 41, § 1.

7-13-608. Repealed by Laws 1987, ch. 41, § 1.

7-13-609. Repealed by Laws 1987, ch. 41, § 1.

7-13-610. Repealed by Laws 1987, ch. 41, § 1.

7-13-611. Repealed by Laws 1987, ch. 41, § 1.

7-13-612. Repealed by Laws 1987, ch. 41, § 1.

7-13-613. Repealed by Laws 1987, ch. 41, § 1.

7-13-614. Repealed by Laws 1987, ch. 41, § 1.

ARTICLE 7
FURLOUGH PROGRAMS

7-13-701. Definitions; establishment of programs.

(a) As used in this section:

(i) "Department" means the state department of corrections;

(ii) "Compassionate leave" means a temporary release to visit a member of the inmate's immediate family who is in danger of death, or to attend the funeral services or other last rites of a member of the inmate's immediate family;

(iii) "Immediate family member" means a spouse, child, parent, brother or sister.

(b) The department may adopt reasonable rules and regulations which will provide for a reentry furlough program for inmates of any state penal institution. The reentry furlough program shall be designed for inmates who are about to be released on parole or final discharge from imprisonment to aid in their reintegration as productive members of society. The program may provide for escorted or unescorted temporary leaves of absence from the institution for purposes of:

(i) Securing community living arrangements;

(ii) Job interviews with prospective employers;

(iii) Learning or relearning necessary living skills; and

(iv) Other purposes, consistent with the public interest, necessary for the inmate's successful reintegration into society.

(c) The department may adopt reasonable rules and regulations which will establish a furlough program to provide for escorted or unescorted temporary leaves of absence from any state penal institution for purposes of:

(i) Maintaining the prisoner's relationship with immediate family members; and

(ii) Providing for compassionate leaves.

7-13-702. Escape.

An inmate is deemed guilty of escape from official detention and shall be punished as provided by W.S. 6-5-206(a)(i) if, without proper authorization, he fails to remain within the extended limits of his confinement, the location he has been furloughed

to, or fails or neglects to return within the time prescribed or when ordered to do so to the institution from which he received a furlough pursuant to W.S. 7-13-701.

ARTICLE 8
PARDONS AND REPRIEVES

7-13-801. Application for reprieve; conditions; acceptance and filing.

(a) An application for a reprieve shall be made to the governor and shall contain:

(i) The name of the person seeking the reprieve;

(ii) The offense for which he was convicted;

(iii) The date and place of the conviction;

(iv) The sentence imposed;

(v) The sentence served;

(vi) Any subsequent arrests, criminal charges, convictions or sentences; and

(vii) Any other pertinent information the governor may request.

(b) The governor's warrant granting a reprieve shall list any conditions upon which the reprieve is granted. The person accepting the reprieve shall agree in writing to any conditions contained in the warrant.

(c) The warrant of reprieve with the acceptance signed by the person granted the reprieve shall be filed with the clerk of the sentencing court as a part of the record in the case.

7-13-802. Confinement of reprieved persons.

The governor may require as a condition of the reprieve that the person reprieved be confined in a state penal institution during the period of the reprieve.

7-13-803. Manner of applying for pardon.

Application for the pardon of any person convicted of a felony shall be made in the manner and under the restrictions prescribed in W.S. 7-13-803 through 7-13-806.

7-13-804. Contents of application for pardon; notice to district attorney.

(a) A person convicted of a felony may apply to the governor for a pardon. The application shall contain:

(i) The name of the person seeking the pardon;

(ii) The offense for which he was convicted;

(iii) The date and place of the conviction;

(iv) The sentence imposed;

(v) The sentence served;

(vi) Any subsequent arrests, criminal charges, convictions or sentences; and

(vii) Any pertinent information the governor may request such as parole and community correctional program records.

(b) The governor shall give notice of the application to the district attorney of the county in which the applicant was indicted or informed against at least three (3) weeks before the application is considered by the governor.

7-13-805. Statement of district attorney following notice of pardon application.

Within ten (10) days after receiving the notice required by W.S. 7-13-804(b), the district attorney for the county in which the applicant was indicted or informed against shall forward to the governor a statement setting forth the time of the trial and conviction, the date and term of the sentence, the crime of which the person was convicted and any circumstances in aggravation or extenuation which appeared in the trial and sentencing of the person.

7-13-806. Certification that applicant for pardon in danger of death.

When a physician certifies to the governor that the applicant for pardon is in imminent danger of death and the department of corrections recommends to the governor that the person be pardoned, the requirements of W.S. 7-13-803 through 7-13-805 do not apply.

7-13-807. Commutation of death sentences.

Pursuant to article 3, section 53 of the Wyoming constitution, a death sentence may be commuted to a sentence of life imprisonment without parole but that sentence shall not be subject to further commutation.

ARTICLE 9
EXECUTION OF DEATH SENTENCE

7-13-901. Notice that convict lacks requisite mental capacity.

(a) As used in W.S. 7-13-901 through 7-13-903:

(i) "Court" means the district court which has sentenced a convict to punishment of death;

(ii) "Designated examiner" means a licensed psychiatrist or the combination of a licensed physician and a licensed psychologist who act in concert;

(iii) "Facility" means the Wyoming state hospital or other facility designated by the court which can adequately provide for the security, examination or treatment of the convict;

(iv) "Custodian" means the sheriff, warden, or head of any facility in which the convict is being held pending execution of the death sentence;

(v) "Requisite mental capacity" means the ability to understand the nature of the death penalty and the reasons it was imposed.

(b) If it appears to any custodian or other interested person that any convict sentenced to the punishment of death does not have the requisite mental capacity, the custodian or interested person shall immediately give notice in writing to the court.

(c) Notice to the court under subsection (b) of this section shall be detailed and accompanied by all psychiatric or psychological reports or evaluations made of the convict since the imposition of the death sentence.

7-13-902. Examination of convict to determine mental capacity; hearing; finding of court.

(a) If the court finds from the notice in W.S. 7-13-901(b) that there is reasonable cause to believe that the convict does not have the requisite mental capacity, the court shall stay the execution and order an examination of the convict by a designated examiner. The order may direct examination at the place of confinement or at any other designated facility.

(b) If the order provides for examination at a designated facility, commitment to that facility for the study of the mental condition of the convict shall continue no longer than a thirty (30) day period.

(c) Upon completion of the examination of the convict the designated examiner shall provide a report in writing to the court of his:

(i) Detailed findings; and

(ii) Opinion as to whether the convict has the requisite mental capacity and, if the convict does not have the requisite mental capacity, the probable duration of that incapacity.

(d) The clerk of court shall deliver copies of the report to the attorney general and the district attorney and to the convict or his counsel. Within five (5) days after receiving the copy of the report, the convict, his counsel or the state may upon written request obtain an order granting them an examination of the convict by a designated examiner of their own choosing. If such an examination is ordered, a report conforming to the requirements of subsection (c) of this section shall be furnished to the court and to the opposing party.

(e) If the state, the convict or his counsel does not contest the opinion referred to in subsection (c) of this section, the court may make a determination and finding of record on the basis of the report filed or may hold a hearing on its own motion. If the opinion is contested, the court shall conduct a hearing at which the report or reports may be received

in evidence. The parties may summon and cross-examine the persons who provided the report or rendered opinions contained therein and offer evidence upon the issue of the convict's requisite mental capacity.

(f) If the court finds by clear and convincing evidence that the convict does not have the requisite mental capacity, the judge shall suspend the execution of the convict until a time when it is found that the convict has the requisite mental capacity.

(g) Upon the court finding that the convict does not have the requisite mental capacity, the court shall issue notice thereof to the convict, the governor, the attorney general and the district attorney.

(h) Unless the convict is represented by counsel, the court shall appoint an attorney to represent him.

(j) During the hearing, the convict shall have an opportunity to be heard either personally or through his counsel. Counsel for the convict may introduce any relevant evidence bearing upon the convict's requisite mental capacity.

(k) If the court finds that the convict has the requisite mental capacity, the court shall issue an order detailing its findings and conclusions and appointing a time for the convict's execution.

7-13-903. Suspension of execution of convict lacking requisite mental capacity; periodic reexaminations; subsequent proceedings.

(a) If the court finds that the convict does not have the requisite mental capacity, the judge shall suspend the execution of the convict. Thereafter a designated examiner shall reexamine the convict at least every twelve (12) months at the direction of the court. After two (2) annual examinations the court may suspend reexamination of the convict.

(b) When the designated examiner determines after examination required by this section that the conditions justifying the suspension of the execution of the death sentence no longer exist, he shall immediately report his determination to the court. The court shall commence a new hearing according to W.S. 7-13-902.

7-13-904. Method of execution.

(a) When sentence of death is imposed by the court in any criminal case, the punishment of death shall be executed by the administration of a continuous intravenous injection of a lethal quantity of an ultra-short-acting barbiturate, alone or in combination with a chemical paralytic agent and potassium chloride, or other equally effective substance or substances sufficient to cause death, until death is pronounced by a licensed physician according to accepted standards of medical practice. The sentence of death shall be executed within the time prescribed by law, unless, for cause shown, the court or governor extends the time. Administration of the injection does not constitute the practice of medicine.

(b) If the execution of the sentence of death as provided in subsection (a) of this section is held unconstitutional, the sentence of death shall be executed by the administration of lethal gas within the time prescribed by law unless for cause shown, the court or the governor extends the time.

7-13-905. Place and time; supervision.

(a) A sentence of death shall be executed within the confines of a state penal institution designated by the director of the department of corrections, before the hour of sunrise on the day specified in the warrant which shall not be less than thirty (30) days after the date of the judgment.

(b) The execution shall be carried out under the supervision and direction of the director of the department of corrections.

7-13-906. Issuance and delivery of warrant.

Whenever a person is sentenced to death, the judge passing sentence shall issue a warrant, signed by the judge and attested by the clerk under the seal of the court, reciting the conviction and sentence and fixing a date of execution. The warrant shall be directed to the director of the department of corrections and shall be delivered by the sheriff at the time the prisoner is delivered to the state penal institution designated by the director.

7-13-907. Confinement pending execution; visitors.

(a) The administrator of the state penal institution shall keep a person sentenced to death in solitary confinement until execution of the death penalty, except the following persons shall be allowed reasonable access to the prisoner:

(i) The prisoner's physician and lawyers;

(ii) Relatives and spiritual advisers of the prisoner; and

(iii) Persons involved in examining a prisoner believed to be pregnant or mentally unfit to proceed with the execution of the sentence.

7-13-908. Witnesses.

(a) Only the following witnesses may be present at the execution:

(i) The director of the department of corrections and any persons deemed necessary to assist him in conducting the execution;

(ii) Two (2) physicians, including the prison physician;

(iii) The spiritual advisers of the prisoner;

(iv) The penitentiary chaplain;

(v) The sheriff of the county in which the prisoner was convicted; and

(vi) Not more than ten (10) relatives or friends requested by the prisoner.

7-13-909. Setting of new execution date following unexecuted sentence.

If for any reason a sentence of death has not been executed and remains in force, the court in which sentence was pronounced, on application of the district attorney, shall, if no legal reason exists for not proceeding with the execution of the sentence, enter an order setting a new date for the execution of the sentence, which shall not be less than thirty (30) days from the date of the order. The court may order the prisoner to be brought before it or, if the prisoner is at large, issue a

warrant for the prisoner's arrest. The court shall also issue a new warrant directed to the director of the department of corrections to carry out the execution of the sentence as provided by W.S. 7-13-906.

7-13-910. Suspension until specified day or temporary reprieve; return of warrant.

(a) If execution of sentence is suspended until a specified day or if a temporary reprieve is granted until a specified day, the fact of the suspension or reprieve shall be noted on the warrant. On the arrival of the specified day the director of the department of corrections shall proceed with the execution without the necessity for the issuance of a new warrant.

(b) In all cases, the director of the department of corrections shall make a return upon the warrant to the court which sentenced the prisoner.

7-13-911. Suspension to permit review; confinement; return to county for retrial.

(a) A prisoner sentenced to death whose sentence is suspended pending an appeal shall be confined in a state penal institution designated by the director of the department of corrections during the period of suspension.

(b) If the prisoner is granted a new trial he shall be returned to the jail of the county in which he was originally convicted.

7-13-912. Inquiry concerning pregnancy of female prisoner.

(a) If there is good reason to believe that a female sentenced to death is pregnant, the director of the department of corrections shall immediately give written notice to the court in which the judgment of death was rendered and to the district attorney. The execution of the death sentence shall be suspended pending further order of the court.

(b) Upon receiving notice as provided in subsection (a) of this section, the court shall appoint a jury of three (3) physicians to inquire into the supposed pregnancy and to make a written report of their findings to the court.

7-13-913. Determination of court as to pregnancy; suspension of sentence.

(a) If the court determines the female is not pregnant, the director of the department of corrections shall execute the death sentence.

(b) If the court determines the female is pregnant, the court shall order the execution of the sentence suspended until it is determined that the female is no longer pregnant at which time the court shall issue a warrant appointing a new date for the execution of the sentence.

7-13-914. Transportation to penal institution.

A prisoner sentenced to death shall be transported to the state penal institution designated by the director of the department of corrections at state expense.

7-13-915. Disposition of body.

The body of any prisoner who has been executed shall be decently buried at the expense of the state, unless the body is claimed by any relative or friend in which case the body may be delivered to the relative or friend for the purpose of burial.

7-13-916. Identity of person aiding execution; confidentiality.

The identities of all persons who participate in the execution of a death sentence as a member of the execution team or by supplying or manufacturing the equipment and substances used for the execution are confidential. Disclosure of the identities made confidential by this section may not be authorized or ordered. Records containing information made confidential by this section shall be redacted to exclude all confidential information and nothing in this section shall be used to limit or deny access to otherwise public information.

ARTICLE 10
YOUTHFUL OFFENDER PROGRAM

7-13-1001. Definitions.

(a) As used in this article:

(i) "Department" means the department of corrections;

(ii) "Reduction of sentence" includes changing a sentence of incarceration to a grant of probation.

7-13-1002. Sentence reduction for youthful offenders.

(a) The sentencing court may reduce the sentence of any convicted felon who:

(i) Is certified by the department as having successfully completed the youthful offender program under W.S. 7-13-1003; and

(ii) Makes application to the court within one (1) year after the individual began serving a sentence of incarceration at a state penal institution.

7-13-1003. Establishment of program; eligibility; rulemaking authority.

(a) The department shall adopt reasonable rules and regulations to establish a youthful offender program for inmates incarcerated in a state penal institution.

(b) In addition to any other eligibility requirements adopted by the department, an inmate is eligible for placement in the youthful offender program only if he:

(i) Is serving a sentence of imprisonment at a state penal institution for any offense other than a felony punishable by death or life imprisonment;

(ii) Has not attained the age of twenty-five (25) years;

(iii) Has not previously served a term of incarceration at any state or federal adult penal institution.

(c) The program created by the department shall include:

(i) Separation of program participants from the general inmate population;

(ii) Emphasis upon work and physical activity as a major element of the program.

(d) Participation by an inmate in the youthful offender program is a matter of grace and not of right. Approval of an inmate's participation in the program may be revoked by the department at any time if the inmate fails to comply with program requirements. The inmate shall not have any right to appeal the denial of his participation in the program.

ARTICLE 11
INTENSIVE SUPERVISION PROGRAM

7-13-1101. Definitions.

(a) As used in this article:

(i) "Department" means the department of corrections;

(ii) "Intensive supervision program" means a program established under W.S. 7-13-1102 which allows participants to live or work in the community under close supervision methods;

(iii) "Validated risk-need assessment" means an actuarial assessment tool that assesses the dynamic and static factors that drive criminal behavior. The validated risk-need assessment shall determine a person's risk to reoffend and the needs of a person that, when addressed, would reduce the risk to reoffend.

7-13-1102. Authority to establish programs; rulemaking authority.

(a) The department is authorized to adopt reasonable rules and regulations to establish an intensive supervision program for probationers and parolees.

(b) An intensive supervision program established under this article may require:

(i) Electronic monitoring, regimented daily schedules or itineraries, house arrest, telephone contact, drug testing, curfew checks or other supervision methods which facilitate contact with supervisory personnel;

(ii) Community service work, family, educational or vocational counseling, cognitive-behavioral programming to address criminal thinking, treatment for substance abuse, mental health treatment and monitoring of restitution orders and fines previously imposed on the participant. For purposes of this

paragraph, cognitive-behavioral programming means as defined in W.S. 7-13-1801(c)(i); and

(iii) Imposition of supervision fees to be paid by participants.

(c) Subject to legislative appropriation, the department may, by negotiation without competitive bid or by competitive bidding, contract with any governmental or nongovernmental entity to provide services required to carry out the provisions of this article.

(d) The department shall have general supervisory authority over all probationers and parolees participating in a program under this article.

7-13-1103. Program participation not a matter of right.

(a) Participation in a program authorized by this article is a matter of grace and not of right.

(b) No person shall be allowed to participate in a program authorized by this article unless the person agrees in writing to abide by all the rules and regulations of the department relating to the operation of the program and agrees to submit to the incentives and sanctions which may be imposed under W.S. 7-13-1801 through 7-13-1803.

7-13-1104. Program participation as a condition of parole.

(a) Except as provided in subsection (b) of this section, the state board of parole may, as a condition of parole, require a parolee who is assessed through a validated risk-need assessment as a high risk for reoffending or violating a condition of parole to participate in a program established under this article, provided:

(i) Space and funding is available for the parolee's participation in the program; and

(ii) The department determines the person has a reasonable likelihood of successfully participating in the program.

(b) Placement of a parolee in a program established under W.S. 7-13-1102 as a sanction under W.S. 7-13-1801 through 7-13-1803 or following a modification or revocation of parole shall

not require the parolee to be assessed through a validated risk-need assessment as a high risk for reoffending or violating a condition of parole.

7-13-1105. Placement of probationer in program by sentencing court.

(a) A sentencing court may, as a condition of probation, order that a defendant who has entered a plea of guilty or nolo contendere to or has been convicted of a felony, or any offense defined by subsection (c) of this section, participate in a program established under this article, provided:

(i) Space is available in the program;

(ii) The probationer agrees to participate in the program;

(iii) The department determines the person has a reasonable likelihood of successfully participating in the program; and

(iv) The legislature has specifically appropriated funds or other unencumbered funds are available to pay for the probationer's participation in the program.

(b) When a presentence report is required by the court, the department shall be responsible for including in the presentence report to the sentencing judge any recommendations for the utilization of a program created under this article.

(c) Subject to the conditions specified in paragraphs (a)(i) through (iv) of this section, participation in a program established under this article may be ordered for a defendant who has entered a plea of guilty or nolo contendere to or has been convicted of a violation of W.S. 6-2-510 or 6-2-511 or a violation of W.S. 6-4-404, or 6-2-504(a) or (b) if the defendant and the victim are household members as defined by W.S. 35-21-102(a)(iv).

(d) Except as provided in subsection (e) of this section, a defendant shall not be placed in a program established under W.S. 7-13-1102 unless the defendant receives a validated risk-need assessment and scores as a high risk for reoffending or for violating conditions of probation except that a defendant may be placed in a program established under W.S. 7-13-1102 for good cause shown upon the record.

(e) Placement of a probationer in a program established under W.S. 7-13-1102 as a sanction under W.S. 7-13-1801 through 7-13-1803 or following a revocation of probation shall not require the probationer to be assessed through a validated risk-need assessment as a high risk for reoffending or violating a condition of probation.

7-13-1106. Repealed by Laws 2019, ch. 116, § 3.

7-13-1107. Administrative rewards and sanctions for program violations.

(a) Repealed by Laws 2019, ch. 116, § 3.

(b) Repealed by Laws 2019, ch. 116, § 3.

(c) Repealed by Laws 2019, ch. 116, § 3.

(d) Repealed by Laws 2019, ch. 116, § 3.

(e) Probationers and parolees who violate the rules and restrictions of an intensive supervision program established under this article shall be sanctioned in accordance with W.S. 7-13-1801 through 7-13-1803 or may be subject to revocation proceedings.

ARTICLE 12
TEEN COURT PROGRAM

7-13-1201. Short title.

This act shall be known and may be cited as the "Wyoming Teen Court Program".

7-13-1202. Definitions.

(a) As used in this act:

(i) "Minor offense" means any crime punishable as a misdemeanor or the violation of any municipal ordinance, provided the maximum penalty authorized by law for the offense does not exceed imprisonment for more than six (6) months and a fine of not more than seven hundred fifty dollars ($750.00);

(ii) "Supervising court" means the municipal court or circuit court by whose order a teen court program is established

pursuant to rules and regulations promulgated by the Wyoming supreme court;

(iii) "Teen" for the purposes of this act means a person who has attained the age of thirteen (13) years of age and is under the age of majority;

(iv) "Teen court" or "teen court program" means an alternative sentencing procedure under which regular court proceedings involving a teen charged with a minor offense may be deferred and subsequently dismissed on condition that the defendant participate fully in the teen court program and appear before a jury of teen peers for sentencing and that the defendant successfully complete the terms and conditions of the sentence imposed. This sentencing is in addition to the provisions of W.S. 7-13-301 and 35-7-1037;

(v) "This act" means W.S. 7-13-1201 through 7-13-1205.

7-13-1203. Authority to establish teen court program.

(a) The Wyoming supreme court shall adopt rules and regulations governing teen court by July 1, 1996.

(b) In addition to any other power authorized, a municipal court judge, with the approval and consent of the governing body of the municipality, or any circuit court judge, with the approval and consent of the board of county commissioners, may by order establish a teen court program and training standards for participation in accordance with this act to provide a disposition alternative for teens charged with minor offenses.

(c) In any case involving the commission of a minor offense by a teen defendant, the supervising court may, without entering a judgment of guilt or conviction, defer further proceedings and order the defendant to participate in a teen court program, provided:

(i) The teen defendant, with the consent of, or in the presence of, the defendant's parents or legal guardian, enters a plea of guilty in open court to the offense charged;

(ii) The restitution amount, if any, owed to any victim has been determined by the supervising court;

(iii) The defendant requests on the record to participate in the teen court program and agrees that deferral of further proceedings in the action filed in the supervising court is conditioned upon the defendant's successful completion of the teen court program; and

(iv) The court determines that the defendant will benefit from participation in the teen court program.

(d) If the supervising court determines that the teen defendant has successfully completed the teen court program, the supervising court may discharge the defendant and dismiss the proceedings against him.

(e) If the defendant fails to successfully complete the prescribed teen court program, the supervising court shall enter an adjudication of guilt and conviction and proceed to impose sentence upon the defendant for the offense originally charged.

(f) Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for any purpose. If the original offense charged was a traffic offense, the supreme court shall, on behalf of the circuit court and within thirty (30) days after the discharge and dismissal is entered, submit to the department of transportation an abstract of the court record compiled under W.S. 7-19-107(k). If the original offense was a traffic offense charged in municipal court, the municipal court shall, within thirty (30) days after the discharge and dismissal is entered, submit to the department of transportation an abstract of the court record compiled under W.S. 7-19-107(k). The department shall maintain abstracts received under this subsection as provided by W.S. 31-5-1214(f).

7-13-1204. Program criteria.

(a) A teen court program may be established under this act in accordance with the following criteria:

(i) The judge of the teen court shall be the judge of the supervising court or an attorney admitted to practice in this state appointed by the supervising court to serve in a voluntary capacity and shall serve at the pleasure of the supervising court;

(ii) Procedures in teen court shall be established by order of the supervising court in conformance with the provisions of this act and shall be subject to any uniform

procedures for teen courts as may be prescribed by the Wyoming supreme court;

(iii) The supervising court may authorize the use of its courtroom and other facilities by the teen court program during times when the courtroom and facilities are not required for the normal operations of the supervising court;

(iv) The teen defendant, as a condition of participation in the teen court program, may be required to pay a nonrefundable fee not to exceed ten dollars ($10.00). Fees collected under this paragraph by a municipal court shall be credited to the treasury of the municipality. Fees collected under this paragraph by a circuit court shall be credited to the treasury of the county;

(v) The teen court program may involve teens serving as voluntary teen court members in various capacities including, but not limited to jurors, prosecutor-advocates, defender-advocates, bailiffs, clerks and supervisory duties;

(vi) Every teen defendant appearing in teen court shall be accompanied by a parent or guardian;

(vii) The teen court jury shall impose restitution, if any, in the amount established by the supervising court;

(viii) The supervisory court, in accordance with the rules and regulations promulgated by the Wyoming supreme court, shall establish a range of sentencing alternatives for any case referred to teen court. Sentencing alternatives shall include, but not be limited to:

(A) Community service as authorized by the supervising court;

(B) Mandatory participation in law related education classes, appropriate counseling, treatment or other education programs;

(C) Require the teen defendant to participate as a juror or other teen court member in proceedings involving teen defendants;

(D) Fines, not to exceed the statutory amount.

(ix) The teen court jury shall not have the power to impose a term of imprisonment.

7-13-1205. Juvenile courts authorized to establish teen court program.

(a) Notwithstanding any other provision of the Juvenile Justice Act, W.S. 14-6-201 through 14-6-252, a juvenile court may establish and offer a teen court program substantially complying with the provisions of this act as an alternative to any disposition authorized by W.S. 14-6-229(d), provided:

(i) Participation in the teen court program shall be limited to teens charged under the Juvenile Justice Act with having committed a minor offense and who have been adjudicated delinquent;

(ii) The juvenile and all parties to the proceeding, including any guardian ad litem appointed in the juvenile court proceeding to represent the best interests of the juvenile, consent to the juvenile's participation in the teen court program;

(iii) The juvenile and the juvenile's parents or guardian waive any rights to confidentiality otherwise available under the Juvenile Justice Act; and

(iv) The juvenile court finds that participation in the teen court program would be in the best interest of the juvenile.

ARTICLE 13
ADDICTED OFFENDER ACCOUNTABILITY

7-13-1301. Definitions.

(a) As used in W.S. 7-13-1301 through 7-13-1304:

(i) "Adequate treatment alternative" is a community program certified under rules adopted by the department of health for purposes of providing substance abuse and other related services to criminal offenders. The program shall provide the level of services required of the offender being referred, be certified by the department of health to treat the criminal justice population and shall include protections, including psychological testing and frequent chemical drug

testing that can be reasonably relied upon to protect the public safety and to hold the offender accountable;

(ii) "Community facility or program" means a community based or community-oriented facility or program which is operated either by a unit of local government or by a nongovernmental agency which provides substance abuse treatment and other necessary programs, services and monitoring to aid offenders in obtaining and holding regular employment, in enrolling in and maintaining academic courses or participating in vocational training programs, in utilizing the resources of the community in meeting their personal and family needs and in participating in other specialized treatment programs existing within the state. These services may be provided directly or through referrals to other programs;

(iii) "Convicted" means an unvacated determination of guilt by any court having legal jurisdiction of the offense and from which no appeal is pending and includes pleas of guilty and nolo contendere. For purposes of W.S. 7-13-1302 only, "convicted" shall include dispositions pursuant to W.S. 7-13-301, 7-13-302(a), 35-7-1037 or deferred prosecutions when ordered. Otherwise, for purposes of this act, "convicted" shall not include dispositions pursuant to W.S. 7-13-301, 7-13-302(a), 35-7-1037 or deferred prosecutions;

(iv) "Qualified offender" means a person convicted of a felony whom the court finds has a need for alcohol or other drug treatment. The payment amount required of the offender for treatment shall be based on the ability of the offender to pay as established on a sliding fee scale pursuant to rules and regulations adopted by the department of health and may, at the discretion of the court, be paid through delayed or installment payments. In determining an offender's ability to pay the court may consider present circumstances as well as reasonable future potential;

(v) "Substance abuse assessment" means an evaluation conducted by a qualified person using practices and procedures approved by the department of health to determine whether a person has a need for alcohol or other drug treatment and the level of treatment services required to treat that person;

(vi) "Violent felony" means murder, manslaughter, kidnapping, sexual assault in the first or second degree, robbery, aggravated assault, strangulation of a household member, aircraft hijacking, arson in the first or second degree,

aggravated burglary, a violation of W.S. 6-2-314(a)(i) or 6-2-315(a)(ii) or a third, or subsequent, domestic battery under W.S. 6-2-511(a) and (b)(iii);

(vii) "This act" means W.S. 7-13-1301 through 7-13-1304.

(b) For purposes of this act "incarceration" or "incarcerated" shall not include periods of confinement allowed under the provisions of W.S. 7-13-1102 or 7-13-1801 through 7-13-1803.

7-13-1302. Substance abuse assessment required.

All persons convicted of a third misdemeanor under W.S. 31-5-233(e) or a felony shall receive a substance abuse assessment. The substance abuse assessment shall be part of a presentence report if prepared. The cost of the substance abuse assessment shall be assessed to and paid by the offender. A person who has undergone a substance abuse assessment pursuant to W.S. 31-5-233(e) may receive a second assessment under this section if the court finds that enough time has passed to make the first assessment inaccurate.

7-13-1303. Suspended sentence for qualified offenders.

(a) Except as provided in subsection (c) of this section, notwithstanding any other provision of law, qualified offenders may be placed on probation under W.S. 7-13-301, receive a suspended sentence under W.S. 7-13-302(a) or placed on probation under W.S. 35-7-1037. The sentence or probation order shall set forth the terms of a treatment program based upon the substance abuse assessment and any other terms and conditions as the court may deem appropriate under the circumstances, and require the offender to satisfactorily complete the treatment program. The court shall include in the sentence or probation order any provisions necessary to reasonably protect the health of the offender.

(b) The treatment provider shall be required to report to the court, the prosecuting attorney, probation officer and counsel representing the offender not less than once per month on the offender's progress in meeting the requirements of the sentence and the program.

(c) A qualified offender or person sentenced under this act may be incarcerated if the court concludes on the basis of the evidence that:

(i) No adequate treatment alternative exists;

(ii) Under the facts of the case, the interests of justice require a period of incarceration; provided however, under the circumstances, a portion of the sentence may be suspended under the conditions set forth in subsection (a) of this section;

(iii) The offender refuses to agree to participate in the court ordered treatment program or fails to satisfactorily complete the court ordered treatment program; or

(iv) The offender commits a felony, sells or otherwise delivers controlled substances while in a program pursuant to this section, or engages in other behavior that poses an unreasonable risk to public safety while in the program. Notwithstanding any other provision of law, in the absence of the commission of these acts, those programs and sanctions set forth in W.S. 7-13-1102 and 7-13-1801 through 7-13-1803 may be used at the discretion of the probation officer or court to address other violations of the sentencing or probation order.

(d) In the event probation is revoked, the court may impose one (1) or more of the sanctions set forth in W.S. 7-13-1102 or 7-13-1801 through 7-13-1803 unless the court, in its sole discretion, finds that another disposition, including imprisonment, is necessary under the facts of the case.

7-13-1304. Rebuttable presumption in violent crime or delivery of controlled substance cases.

If a person has been convicted of a violent felony or delivery or unlawful manufacture of a controlled substance under W.S. 35-7-1031, there is a rebuttable presumption that the person is not a "qualified offender" for purposes of sentencing under this act. This presumption may be rebutted by clear and convincing evidence that the person who is an otherwise qualified offender convicted of a violent felony could participate in a treatment program without posing an unreasonable risk to the safety of the public. As to persons convicted of manufacture or delivery of a controlled substance, the presumption may be rebutted by clear

and convincing evidence that the person committed the crime because of his own dependency.

ARTICLE 14
EXPUNGEMENT OF CRIMINAL RECORDS

7-13-1401. Petition for expungement; records of arrest, dismissal of charges, disposition; eligibility; no filing fee.

(a) A person, or the state with regard to a petition for the expungement of records pertaining to a juvenile, may petition the court in which a proceeding occurred, or would have occurred, for an order expunging records of arrest, charges or dispositions which may have been made in the case, subject to the following limitations:

(i) At least one hundred eighty (180) days have passed since the arrest, or from the date the charge or charges were dismissed for which expungement is sought, there are no formal charges pending against the person when the petition is filed, there were no dispositions pursuant to W.S. 7-13-301 to any charge or charges as the result of the incident leading to the arrest, including dispositions to a different or lesser charge, there were no dispositions pursuant to W.S. 35-7-1037 to any charge or charges as the result of the incident leading to the arrest, including dispositions to a different or lesser charge, there were no dispositions pursuant to former W.S. 7-13-203 to any charge or charges as the result of the incident leading to the arrest, including dispositions to a different or lesser charge, the petitioner sufficiently demonstrates that his petition satisfies all the requirements of this section, and at least one (1) of the following applies:

(A) There were no convictions pursuant to any charge or charges, including a conviction pursuant to a different or lesser charge as the result of the incident leading to the arrest;

(B) No criminal charges of any nature were filed in any court as the result of the incident leading to the arrest; or

(C) All criminal proceedings against the person were dismissed by the prosecutor or the court, and such proceedings were the result of the incident which led to the arrest.

(b) Any petition filed under this section shall be verified by the petitioner, served upon and reviewed by the prosecuting attorney, and no order granting expungement shall be issued prior to the expiration of twenty (20) days after service was made.

(c) The prosecuting attorney shall file with the court, an objection, if any, to the petition within twenty (20) days after service. If an objection is filed, the court shall set the matter for hearing. If no objection is filed, the court may summarily enter an order if the court finds that the petitioner is otherwise eligible for relief under this section.

(d) If the court finds that the petitioner is eligible for relief under this section, it shall issue an order granting the expungement of the applicable record. The court shall also place the court file under seal, available only for inspection by order of that court. The court shall transmit a certified copy of the order to the division of criminal investigation.

(e) There shall be no filing fee for a petition filed under this section.

(f) A person who has received an order of expungement under this section may respond to any inquiry as though the arrest, or charge or charges did not occur, unless otherwise provided by law.

(g) The state, through the prosecuting attorney, may appeal any order of expungement issued by any court under this section.

(h) Notwithstanding W.S. 1-39-101 through 1-39-120, the division of criminal investigation and its employees are immune from liability, either as an agency or individually, for any actions, inactions or omissions by the agency or any employee thereof, pursuant to this section.

(j) As used in this section:

(i) "Expungement" means only the classification of the record maintained in the files of the state central repository at the division of criminal investigation as defined by W.S. 7-19-107(a), in a manner reasonably tailored to ensure that the record will not be available for dissemination purposes other than to a criminal justice agency of any state or a federal criminal justice agency, to be used solely for criminal

justice purposes. Expungement shall not include investigatory files of any local, state or federal criminal justice agency, where those files are being used solely for criminal justice purposes;

(ii) "Record" means any notation of the arrest, charge or disposition maintained in the state central repository at the division of criminal investigation, whether in paper or electronic format.

(k) The state may file a petition for the expungement of a juvenile arrest record, charges or dispositions without service on the juvenile. For the purposes of this subsection, "expungement" means as defined in W.S. 14-6-241(f).

ARTICLE 15
EXPUNGEMENT OF RECORDS OF CONVICTIONS

7-13-1501. Petition for expungement of records of conviction of certain misdemeanors; filing fee; notice; objections; hearing; definitions; exceptions.

(a) A person who has pled guilty or nolo contendere to or been convicted of a misdemeanor may petition the convicting court for an expungement of the records of conviction, subject to the following limitations:

(i) At least five (5) years have passed for nonstatus offenses and at least one (1) year has passed for status offenses as defined by W.S. 7-1-107(b)(iii) since the expiration of the terms of sentence imposed by the court, including any periods of probation or the completion of any program ordered by the court;

(ii) Repealed by Laws 2015, ch. 164, § 2.

(iii) The misdemeanor or misdemeanors for which the person is seeking expungement shall not have involved the use or attempted use of a firearm;

(iv) A health care provider who has pled guilty or nolo contendere to or has been convicted of an offense punishable under W.S. 6-2-313 which was committed against a patient under the care of the health care provider shall not be eligible for an expungement of the records of conviction.

(b) A petition filed under this section shall be verified by the petitioner and served upon the prosecuting attorney and the division of criminal investigation. The filing fee for each petition filed under this section shall be one hundred dollars ($100.00) and shall be deposited in accordance with W.S. 5-9-144.

(c) The prosecuting attorney shall serve notice of the petition for expungement by certified mail, return receipt requested, to any identifiable victims of the misdemeanors at their last known addresses of record on file with the prosecuting attorney. The notices shall include a copy of the petition and statutes applicable to the petition. In the event that there are no identifiable victims, or that there is at least one (1) identifiable victim and the prosecuting attorney has no address of record on file or the notice sent was returned or is otherwise undeliverable, the prosecuting attorney shall notify the court and shall be deemed to have complied with the provisions of this subsection.

(d) The court in its discretion may request a written report by the division of criminal investigation concerning the criminal history of the petitioner.

(e) The prosecuting attorney shall review the petition and shall file with the court an objection or recommendation, if any, to the petition within thirty (30) days after service of the notice by the petitioner upon the prosecuting attorney. If the prosecuting attorney or an identifiable victim submits a written objection to the court concerning the petition within thirty (30) days after service of the notice by the petitioner upon the prosecuting attorney, or if the petitioner objects to the criminal history report of the division of criminal investigation if requested by the court, the court shall set a date for a hearing and notify the prosecuting attorney, the identifiable victims who have submitted written objections to the petition, the division of criminal investigation and the petitioner of the date set for the hearing. Any person who has relevant information about the petitioner may testify at the hearing.

(f) If no objection is filed to the petition within thirty (30) days after service of the notice by the petitioner upon the prosecuting attorney, the court may summarily enter an order if the court finds that the petitioner is otherwise eligible for relief under this section. No order granting expungement shall

be issued prior to the expiration of thirty (30) days after service was made to the prosecuting attorney.

(g) If the court finds that the petitioner is eligible for relief under this section and that the petitioner does not represent a substantial danger to himself, any identifiable victim or society, it shall issue an order granting expungement of the applicable records. The court shall also place the court files under seal, available for inspection only by order of that court. The court shall transmit a certified copy of the order to the division of criminal investigation.

(h) The state, through the prosecuting attorney, may appeal any order of expungement issued by any court under this section.

(j) Notwithstanding W.S. 1-39-101 through 1-39-120, the division of criminal investigation and its employees and any prosecuting attorney are immune from liability, either as an agency or individually, for any actions, inactions or omissions by the agency or any employee thereof, pursuant to this section.

(k) Nothing in this section shall be construed to allow a person who has previously received an expungement of records of conviction under this section to seek a second or subsequent expungement of records of conviction under this section.

(m) As used in this section:

(i) "Expungement" means as defined in W.S. 7-13-1401(j)(i);

(ii) "Misdemeanor" means as defined by W.S. 6-10-101;

(iii) "Record" means as defined in W.S. 7-13-1401(j)(ii);

(iv) "Health care provider" means an individual who is licensed, certified or otherwise authorized or permitted by the laws of this state to provide care, treatment, services or procedures to maintain, diagnose or otherwise treat a patient's physical or mental condition.

7-13-1502. Petition for expungement of records of conviction of certain felonies; filing fee; notice; objections; hearing; definitions; restoration of rights.

(a) A person convicted of a felony or felonies subject to expungement under this section arising out of the same occurrence or related course of events, may petition the convicting court for an expungement of the records of conviction, subject to the following limitations:

(i) At least ten (10) years have passed since:

(A) The expiration of the terms of sentence imposed by the court, including any periods of probation;

(B) The completion of any program ordered by the court; and

(C) Any restitution ordered by the court has been paid in full.

(ii) Other than convictions for which an expungement is sought under this section, the petitioner has not previously pleaded guilty or nolo contendere to or been convicted of a felony;

(iii) The felony or felonies for which the person is seeking expungement shall not have involved the use or attempted use of a firearm unless the felony or felonies are offenses punishable under title 23 of Wyoming statutes;

(iv) Felonies subject to expungement under this section shall not include:

(A) Violent felonies as defined in W.S. 6-1-104(a)(xii);

(B) Any offense punishable under W.S. 6-2-106(b);

(C) Any offense punishable under W.S. 6-2-108;

(D) Any offense punishable under W.S. 6-2-301 through 6-2-320;

(E) Any offense punishable under W.S. 6-2-501(f) as in effect prior to July 1, 2014 and any offense punishable under W.S. 6-2-511(b)(iii);

(F) Any offense punishable under W.S. 6-2-503;

(G) Any offense punishable under W.S. 6-2-508(b);

(H) Repealed By Laws 2014, Ch. 124, § 2.

(J) Repealed By Laws 2014, Ch. 124, § 2.

(K) Any offense punishable under W.S. 6-4-303(b)(i) through (iii);

(M) Any offense punishable under W.S. 6-4-402(b);

(N) Any offense punishable under W.S. 6-4-405;

(O) Any offense punishable under W.S. 6-5-102;

(P) Any offense punishable under W.S. 6-5-204(c);

(Q) Any offense punishable under W.S. 6-5-206 or 6-5-207;

(R) Repealed By Laws 2014, Ch. 124, § 2.

(S) Any offense punishable under W.S. 6-8-101 and 6-8-102; or

(T) Any offense subject to registration under W.S. 7-19-302(g) through (j);

(U) Repealed By Laws 2014, Ch. 124, § 2.

(W) Repealed By Laws 2014, Ch. 124, § 2.

(b) A petition filed under this section shall be verified by the petitioner and served upon the prosecuting attorney and the division of criminal investigation. The filing fee for each petition filed under this section shall be three hundred dollars ($300.00) and shall be deposited in accordance with W.S. 5-3-205.

(c) The prosecuting attorney shall, within thirty (30) days of service upon him, serve notice of the petition for expungement by certified mail, return receipt requested, to any identifiable victims of the nonviolent felonies at their last known addresses of record on file with the prosecuting attorney.

The notices shall include a copy of the petition and statutes applicable to the petition. In the event that there are no identifiable victims, or that there is at least one (1) identifiable victim and the prosecuting attorney has no address of record on file or the notice sent was returned or is otherwise undeliverable, the prosecuting attorney shall notify the court and shall be deemed to have complied with the provisions of this subsection.

(d) The court in its discretion may request a written report by the division of criminal investigation concerning the criminal history of the petitioner.

(e) The prosecuting attorney shall review the petition and shall file with the court an objection or recommendation, if any, to the petition within ninety (90) days after service of the notice by the petitioner upon the prosecuting attorney. If the prosecuting attorney or an identifiable victim submits a written objection to the court concerning the petition within ninety (90) days after service of the notice by the petitioner upon the prosecuting attorney, or if the petitioner objects to the criminal history report of the division of criminal investigation if requested by the court, the court shall set a date for a hearing and notify the prosecuting attorney, the identifiable victims who have submitted written objections to the petition, the division of criminal investigation and the petitioner of the date set for the hearing. Any person who has relevant information about the petitioner may testify at the hearing.

(f) If no objection is filed to the petition within ninety (90) days after service of the notice by the petitioner upon the prosecuting attorney, the court may summarily enter an order if the court finds that the petitioner is otherwise eligible for relief under this section. No order granting expungement shall be issued prior to the expiration of ninety (90) days after service was made to the prosecuting attorney.

(g) If the court finds that the petitioner is eligible for relief under this section and that the petitioner does not represent a substantial danger to himself, any identifiable victim or society, it shall issue an order granting expungement of the applicable records. The court shall also place the court files under seal, available for inspection only by order of that court. The court shall transmit a certified copy of the order to the division of criminal investigation.

(h) The state, through the prosecuting attorney, may appeal any order of expungement issued by any court under this section.

(j) Notwithstanding W.S. 1-39-101 through 1-39-120, the division of criminal investigation and its employees and any prosecuting attorney are immune from liability, either as an agency or individually, for any actions, inactions or omissions by the agency or any employee thereof, pursuant to this section.

(k) Nothing in this section shall be construed to allow a person who has previously received an expungement of records of conviction under this section to seek a second or subsequent expungement of records of conviction under this section.

(m) An expungement of records pursuant to this section shall restore any rights removed as a result of the conviction for which the expungement has been granted.

(n) As used in this section:

(i) "Expungement" means as defined in W.S. 7-13-1401(j)(i);

(ii) "Record" means as defined in W.S. 7-13-1401(j)(ii).

ARTICLE 16
COURT SUPERVISED TREATMENT PROGRAMS ACT

7-13-1601. Short title.

This act shall be known and may be cited as the "Court Supervised Treatment Programs Act."

7-13-1602. Definitions.

(a) As used in this act:

(i) "Account" means the court supervised treatment account created by W.S. 7-13-1605(a);

(ii) "Applicant" means the governing body of a city, town or county, a tribal government of either the Northern Arapaho or Eastern Shoshone tribes of the Wind River Indian Reservation or a nonprofit organization recognized under 26 U.S.C. 501(c)(3);

(iii) "Continuum of care" means a seamless and coordinated course of substance abuse education and treatment designed to meet the needs of drug offenders as they move through the criminal justice system and beyond, maximizing self-sufficiency;

(iv) "Department" means the Wyoming department of health;

(v) "Dual diagnosis" means substance abuse and a co-occurring mental health disorder;

(vi) "Participant" means a substance offender or any other person as provided in title 14 of the Wyoming statutes who has been referred to and accepted into a program;

(vii) "Participating judge" means the district, juvenile, circuit, municipal or tribal court judge or magistrate acting as part of a program team;

(viii) "Program" or "court supervised treatment program" means a local court supervised treatment program that complies with rules and regulations adopted by the department;

(ix) "Program coordinator" means the person responsible for coordinating the establishment, operation, evaluation and integrity of a program;

(x) "Program team" means the team created pursuant to W.S. 7-13-1609(a);

(xi) "Recidivism" means any subsequent criminal charge;

(xii) "Referring judge" means the district, juvenile, circuit, municipal or tribal court judge or magistrate who refers a substance offender or any other person as provided in title 14 of the Wyoming statutes to a program;

(xiii) "Staffing" means the meeting of a program team before a participant's entry into the program, and during the participant's participation in the program, to plan a coordinated response to the participant's behaviors and needs;

(xiv) "Substance" means alcohol, any controlled substance as defined in W.S. 35-7-1002(a)(iv), any substance

used for mind altering purpose or over-the-counter medications and inhalants which are used in a manner not intended by the manufacturer;

(xv) "Substance abuse assessment" means as defined in W.S. 7-13-1301(a)(v);

(xvi) "Substance abuse treatment" means treatment designed to provide education and therapy directed toward ending substance abuse and preventing its return;

(xvii) "Substance offender" means a person charged with a substance related offense or an offense in which substance abuse is determined from the evidence to have been a significant factor in the commission of the offense;

(xviii) "This act" means W.S. 7-13-1601 through 7-13-1616.

7-13-1603. Purposes and goals.

(a) The legislature recognizes the critical need in this state for treatment programs to break the cycle of substance abuse and the crimes committed as a result thereof. Court supervised treatment programs shall be facilitated for the purpose of providing sentencing options for the judicial system in cases stemming from substance abuse, by combining judicial supervision, probation, substance abuse assessment, substance abuse testing, monitoring, treatment, and aftercare for substance offenders.

(b) The goals of the programs funded under this act shall be:

(i) To reduce recidivism by participants;

(ii) To strive for program retention and graduation of participants;

(iii) To strive for sobriety of participants; and

(iv) To monitor the services provided to participants.

7-13-1604. Standards for attorneys and judges.

(a) Attorneys, participating judges and referring judges shall adhere to the standards set forth in the Wyoming Rules of Professional Conduct for Attorneys at Law, the Wyoming Code of Judicial Conduct and any rules adopted by the supreme court governing program practices.

(b) The referring judge in a particular case may be the participating judge in that participant's treatment program, provided the participating judge shall not act upon any motion to revoke probation that may be filed in the original criminal or juvenile case, nor in sentencing or disposition.

7-13-1605. Establishment of court supervised program account; rules and regulations; panel created; program funding.

(a) There is created a court supervised treatment program account. All interest earned on funds within this account shall be deposited in the account. The department shall oversee and provide funding for programs from the court supervised treatment program account. Funds within the account shall be expended by the department for the purposes of this act upon legislative appropriation provided, however, that surcharges deposited in the account pursuant to W.S. 7-13-1616(e) shall be distributed to programs by the department semiannually. Department expenses under this act shall not exceed ten percent (10%) of the total amount of funding provided by the department for programs in any fiscal biennium.

(b) The department shall determine whether an application for a program meets the qualifications specified in W.S. 7-13-1606(b) and the rules and regulations promulgated by the department pursuant to subsection (c) of this section.

(c) The department shall promulgate rules and regulations necessary to implement this act, including establishing standards consistent with the key components of drug courts defined by the United States department of justice or such similar rules as may be adopted by the department. The rules shall:

(i) Specify funding formulas for funding from the account which formula shall include provisions requiring local contribution to the cost of a program;

(ii) Require participants to contribute financially to their own program;

(iii) Establish program requirements, operational standards and protocols for programs, program team and staff training requirements, program data collection and maintenance, certification requirements for treatment personnel, and incentive and sanction limitations.

(d) A panel, consisting of the attorney general, the directors of the department of health, department of family services and department of corrections, the chairman of the governor's advisory board on substance abuse and violent crimes and the state public defender, or their designees, shall make the final determination whether an application for a court supervised treatment program meets the qualifications of this act and shall determine the funding amount for each successful applicant. The panel may deny an application for a new program if the funding for the new program would substantially affect funding levels for existing programs.

(e) In addition to those funds deposited in the account created by this section, the department may accept, and shall deposit to the account, any gifts, contributions, donations, grants or federal funds specifically given to the department for the benefit of programs in Wyoming.

(f) Nothing in this act shall prohibit a program from obtaining or providing supplemental funding. All supplemental funds received by a program shall be reported to the department.

7-13-1606. Establishment of court supervised treatment programs.

(a) Any court supervised treatment program that meets the qualifications specified in this section and the department's rules and regulations may apply for funding from the account on a form developed by the department.

(b) The applicant shall be the contracting agent for all its program contracts. All program employees of a program shall be employees of the applicant that was awarded a grant under this section, but referring judges, participating judges, other judicial branch personnel and department of corrections personnel shall not be program employees. All program funds and grants shall be managed by the applicant to whom a grant is awarded pursuant to the provisions of a contract between the department and the applicant.

(c) All program billing shall be the responsibility of the applicant.

(d) The application shall identify participating judges and contain a plan for the participation of judges. The plan shall be consistent with rules adopted by the department and the supreme court.

(e) The application shall specify the treatment services to be provided by the program and shall identify the treatment providers.

(f) The application shall include other information that may be required by the department.

7-13-1607. Participation in court supervised treatment program; conditions; extended probation.

(a) No substance offender may participate in a program unless the substance offender, in a Wyoming district, juvenile, circuit, municipal or tribal court, has been charged with an offense; and:

(i) Has entered an admission, or a guilty or nolo contendere plea;

(ii) Has entered a guilty plea pursuant to W.S. 7-13-301;

(iii) Has signed a consent decree under title 14 of the Wyoming statutes; or

(iv) Is on parole under the provisions of W.S. 7-13-401 et seq.

(b) Any district, juvenile, circuit, municipal or tribal court judge, or magistrate, may refer substance offenders for participation in a program. The referring judge may act as a participating judge in a program as authorized by this act and by rules adopted by the supreme court. A substance offender who is a defendant in a criminal action or a respondent in a juvenile court action may be referred for participation in a program if:

(i) A substance abuse assessment reveals that the person is in need of treatment;

(ii) The referring judge has reason to believe that participation in a program will benefit the person by addressing his substance abuse;

(iii) In a juvenile court case, the referring judge has reason to believe that participation by the child's parent or guardian will be in the best interest of the child; or

(iv) The person's case is processed pursuant to subsection (a) of this section.

(c) Participation in a program shall only be with the consent of the referring judge and the participant, and acceptance of the participant by the program team in accordance with a written agreement between the participant and the program team. The agreement shall include the participant's consent to release of medical and other records relevant to his treatment history and assessment that meets the requirements of 42 U.S.C. 290dd-2(b) or 42 C.F.R. part 2.31, as applicable. Prior to a participant's entry into a written agreement, the participating judge shall inform the participant that he may be subject to a term of probation that exceeds the maximum term of imprisonment established for the particular offense charged, as provided in W.S. 5-9-134 and 7-13-1614.

(d) Nothing in this act shall confer a right or an expectation of a right to participate in a program, nor does this act obligate a program team to accept any proposed participant. Neither the establishment of a program nor anything herein contained shall be construed as limiting the discretion of a prosecuting attorney in regard to the prosecution of any criminal or juvenile case. Consent to participation in a program under subsection (c) of this section shall only be required from the referring judge and participant.

7-13-1608. Incentives and sanctions; extended probation.

(a) The participating judge may grant reasonable incentives under the written agreement under W.S. 7-13-1607(c) if he finds that since the last staffing, the participant:

(i) Is performing satisfactorily in the program;

(ii) Is benefiting from the program; and

(iii) Has not violated any term or condition of the agreement.

(b) The participating judge may impose reasonable sanctions under the written agreement, including but not limited to, expulsion from the program, incarceration for a period not to exceed thirty (30) days if the participant is an adult, or detention for a period not to exceed thirty (30) days if the participant is a juvenile, if the participating judge finds that since the last staffing the participant:

(i) Is not performing satisfactorily in the program;

(ii) Is not benefiting from the program;

(iii) Has engaged in conduct rendering the participant unsuitable for the program;

(iv) Has otherwise violated any term or condition of the written agreement; or

(v) Is unable to participate in the program.

(c) To ensure due process of law, expulsion from the program shall be at the discretion of the participating judge, following a hearing, based on the recommendation of the program team. Expulsion shall not occur without the participant first being notified of the reasons for the proposed expulsion and given an opportunity to be heard by the program team and the participating judge.

7-13-1609. Program team to be created; duties; program coordinator.

(a) Each applicant seeking to establish a program shall create a program team, consisting of the following members, all of whom shall be appointed by the governing body of the applicant, subject to the individual consent of each appointee:

(i) A participating judge;

(ii) A prosecuting attorney;

(iii) An attorney who practices criminal defense or serves as a guardian ad litem;

(iv) A representative of the treatment providers;

(v) The probation officer or other person who supervises participants;

(vi) The program coordinator; and

(vii) Other persons determined necessary and helpful by the participating judge.

(b) The program team shall, when practicable, conduct a staffing prior to each program session to discuss and provide updated information regarding participants scheduled to appear during the session. After determining the progress or lack thereof for each participant, the program team shall agree on the appropriate incentives or sanctions to be applied. If the program team cannot unanimously agree on the appropriate action to be taken, the participating judge shall make a decision based upon the information presented during the staffing.

(c) Each program shall have a program coordinator who shall be responsible for the general administration of the program.

7-13-1610. Confidentiality of treatment records.

Program staff shall be provided with access to all records of any state or local government relevant to the participant's treatment. The records and reports shall be maintained in a confidential file not available to the public and the contents thereof shall not be disclosed to any person outside the program without a court order. Program staff shall comply with the confidentiality rules contained in 42 U.S.C. 290dd-2 or 42 C.F.R. part 2, as applicable.

7-13-1611. Treatment and support services.

(a) Each program shall strive to establish a system to ensure that participants are provided treatment services that have been certified by the department. Each program team shall strive to determine the type and duration of treatment service appropriate for the participant's individualized needs, based upon objective medical diagnostic criteria.

(b) The program team shall strive to establish an adequate continuum of care for each participant, including adequate support services and aftercare.

(c) The program team shall strive to provide appropriate treatment to participants who have a dual diagnosis.

(d) The relationship between each treatment provider and the program shall be governed by a memorandum of understanding, which shall include a requirement for the timely reporting of the participant's progress or lack thereof in treatment.

7-13-1612. Substance abuse testing.

(a) The program team shall require accurate and reliable substance use testing of participants.

(b) Participants shall be required to submit to frequent, random and observed substance use testing.

(c) The results of all substance use tests shall be provided to the program team as soon as practicable.

7-13-1613. Participant information and progress statistics.

(a) Participants may be required to provide access to the following information, the collection and maintenance of which by the program team shall be in a standardized format pursuant to department rules and regulations:

(i) Gender, race, ethnicity, marital status and child custody and support obligations;

(ii) Criminal history;

(iii) Substance abuse history, including substances of choice and prior treatment;

(iv) Employment, education and income history;

(v) Number and health of children born to female participants;

(vi) Incidents of recidivism occurring before, during and after successful completion of a program, or failed participation in a program.

(b) Programs shall maintain and report to the department the following information pursuant to department rules and regulations, none of which shall identify the participants:

(i) The number of participants screened for eligibility, the number of eligible persons who were, and who were not, admitted to the program and their case dispositions;

(ii) The costs of operation and sources of funding of the program.

7-13-1614. Municipal courts.

A municipal judge may place a criminal defendant on probation pursuant to W.S. 7-13-301 through 7-13-307 and require the defendant as a probationary condition to participate in a program under this act. Notwithstanding any other provision of law, the probation period for a defendant whose disposition includes participation in a program or a court supervised treatment program may exceed the maximum term of imprisonment established for the offense, but shall not exceed thirty-six (36) months.

7-13-1615. Program participation as a condition of parole.

(a) The state board of parole may, as a condition of parole, require a parolee to participate in a program established under this act, provided:

(i) The program team accepts the parolee for participation in the program; and

(ii) The parolee is subject to the rules and sanctioning powers of the program but remains under the authority of the board for all other matters related to the parole.

7-13-1616. Surcharge to be assessed in certain criminal cases; paid to account.

(a) In addition to any fine or other penalty prescribed by law, a defendant who pleads guilty or nolo contendere to, or is convicted of, any offense under W.S. 31-5-233 or 35-7-1001 through 35-7-1057 may be assessed a surcharge of not more than fifty dollars ($50.00).

(b) The surcharge may be imposed upon any defendant for whom prosecution, trial or sentence is deferred under W.S. 7-13-301 and 7-13-302 or 35-7-1037 or who participates in any

other diversion agreement for an offense specified in subsection (a) of this section.

(c) The court may waive the surcharge if the person is unable to pay the surcharge or for any other good cause shown. The court shall consider all other financial obligations imposed on the defendant and set the surcharge so as not to create an undue financial burden on the defendant.

(d) The surcharge shall be paid within ten (10) days of imposition. Failure to comply with the provisions for payment of the surcharge is punishable as contempt of court. Contempt or other proceedings, including proceedings under W.S. 6-10-105, if applicable, to collect the surcharge may be initiated by the district attorney or by the court on its own motion.

(e) The proceeds from the surcharge imposed by this section shall be remitted promptly by the clerk of the court to the department for deposit in the account.

ARTICLE 17
24/7 SOBRIETY PROGRAM

7-13-1701. Short title.

This article shall be known and may be cited as the "24/7 Sobriety Program Act."

7-13-1702. Definitions.

(a) As used in this article:

(i) "Account" means the "24/7 sobriety program account" created by W.S. 7-13-1707;

(ii) "Court" means a district, circuit or municipal court;

(iii) "Participation" in a 24/7 sobriety program means that the person ordered to participate submits to and passes all required tests;

(iv) "Program" means the 24/7 sobriety program created under this article;

(v) "Rules" means the 24/7 sobriety program rules promulgated by the attorney general under this article;

(vi) "Remote electronic alcohol monitoring device" means any electronic instrument that is attached to a person and is capable of determining and monitoring the presence of alcohol in the person's body, including any equipment necessary for the device to perform properly;

(vii) "Remote breath testing device" means an unsupervised mobile breath testing device with the ability to confirm the identify, location and presence of alcohol in a person and is capable of scheduled, random and on demand tests that provide immediate results to a participating agency.

7-13-1703. 24/7 sobriety program created.

(a) There is created a 24/7 sobriety program to be administered by the attorney general. The purpose of the program is to reduce the number of repeat crimes that are related to substance abuse by monitoring an offender's sobriety through intensive alcohol and drug testing and immediate and appropriate enforcement of violations.

(b) The program shall provide for frequent and certain testing for drug or alcohol use. The testing methods may include breath testing, drug patch testing, urinalysis, use of a remote breath testing device or a remote electronic alcohol monitoring device or other testing methods as provided by rule.

7-13-1704. Inclusion in program.

(a) Each county, through its sheriff, may take part in the program. A sheriff may designate an entity to provide the testing services or to take any other action authorized to be taken by the sheriff under this article with the exception of action taken to apprehend a violator under W.S. 7-13-1709.

(b) The sheriff shall establish the testing locations and times for his county but shall have at least one (1) testing location and two (2) daily testing times approximately twelve (12) hours apart unless the sheriff utilizes a remote electronic alcohol monitoring device that complies with rules promulgated by the attorney general pursuant to W.S. 7-13-1705.

7-13-1705. Rulemaking authority.

(a) The attorney general shall adopt rules to implement this article. The rules shall:

(i) Provide for the nature and manner of testing and the procedures and apparatuses to be used for testing;

(ii) Establish fees and provide for the collection of fees. The fees shall be set as low as possible, but shall be set so that the total of fees and other funds credited to the program account defray the entire expense of the program, including all costs to the state; and

(iii) Establish a data management program to manage program data, including testing results, fees and required reports. The data management program shall be used by all counties taking part in the program.

7-13-1706. Distribution of testing fees.

The sheriff shall collect and transmit testing fees to the state treasurer to be credited to the 24/7 sobriety program account created by W.S. 7-13-1707. The fees shall be distributed as provided by this article and the rules.

7-13-1707. 24/7 sobriety program account.

(a) There is created a 24/7 sobriety program account. The account shall be used by the attorney general to defray all the costs of the program to the state, including the costs of the attorney general in administering this article. Disbursements from the account shall not exceed the monies credited to it. All monies in the account are continuously appropriated to the attorney general to be used solely for the administration of the program and for no other purpose. After paying participating vendors, the attorney general shall return no less than seventy-five percent (75%) of the remaining fees collected under W.S. 7-13-1706 to the sheriff who collected the fee. The sheriff shall utilize the funds only to administer or enhance the county's 24/7 sobriety program. Notwithstanding W.S. 9-2-1008 and 9-4-207 funds in the account shall not lapse at the end of the fiscal period. Interest earned on funds in the account shall be deposited to the account.

(b) The attorney general may accept, and shall deposit in the account, any gifts, contributions, donations, grants or federal funds specifically designated for the benefit of the program.

7-13-1708. Authority of court to order participation in program.

(a) Upon a charge or offense for conduct committed while intoxicated or under the influence of a controlled substance, a court may order participation in the program as a condition of pretrial release, bond, suspension of sentence, probation or other conditional release.

(b) Participation in the program may be imposed as a condition of release under the Wyoming Rules of Criminal Procedure, including rules 46.1 and 46.2.

(c) Before ordering participation in the program, a court may require the person to undergo a substance abuse assessment. The cost of the substance abuse assessment shall be paid by the offender.

(d) The state board of parole may require a parolee to participate in the program as a condition of parole.

7-13-1709. Apprehension of violators.

(a) Upon the failure of a person to submit to a test under the program or upon a positive test for alcohol or controlled substance in violation of the program, a peace officer or a probation and parole agent shall complete a written statement establishing the person, in the judgment of the officer or agent, violated a condition of release by failing to submit to or pass a test. A peace officer shall immediately arrest the person without warrant after completing or receiving the written statement.

(b) A person taken into custody under this section shall appear before a court within a reasonable time and shall not be released unless the person has made a personal appearance before a court.

7-13-1710. 24/7 sobriety program director; appointment.

The attorney general may appoint a director to administer the program. The appointment shall be subject to senate confirmation in the manner provided for in W.S. 28-12-101 and 28-12-102 for gubernatorial appointments. The director shall receive an annual salary determined by the department of administration and information human resources division.

7-13-1711. Repealed by Laws 2019, ch. 49, § 3.

ARTICLE 18
PROBATION AND PAROLE INCENTIVES AND SANCTIONS

7-13-1801. Incentives and sanctions system; duties of the department of corrections; definitions.

(a) The department shall by rule and regulation establish, maintain and implement an incentives and sanctions system to utilize as responses to positive and negative behavior by probationers, parolees and conditional releasees under the department's supervision. The system shall provide for graduated responses to compliance violations and other violations of supervision conditions in a swift, certain and proportional manner and shall include guidance and procedures to determine when and how to:

(i) Request a warrant;

(ii) Initiate and conduct any hearing required under W.S. 7-13-1803; and

(iii) Seek departmental approval to use custodial sanctions.

(b) To implement and continuously improve the incentives and sanctions system, the department shall:

(i) Provide information and training on the system to probation and parole agents and supervisors and to members and staff of the state board of parole;

(ii) Offer information and training on the system to the Wyoming supreme court, district court judges, circuit court judges, district attorneys, defense attorneys, law enforcement officers, corrections and detention officers, contracted service providers and other interested personnel;

(iii) Review the system at least one (1) time every five (5) years to ensure that the system adheres to evidence-based practices and that the use of incentives and sanctions by probation and parole agents is consistent throughout the state;

(iv) Ensure that the responses, guidance and procedures established in the system consider community safety and the needs of the victim and offender;

(v) Collect data relating to placement decisions determined by using the system;

(vi) Aggregate collected data and submit a report by September 1 of each year to the joint judiciary interim committee.

(c) As used in this article:

(i) "Cognitive-behavioral programming" means programming or therapy that utilize cognitive-behavioral and social learning theories to target a person's dysfunctional beliefs, thoughts and patterns of behavior that contribute or lead to criminal behaviors;

(ii) "Compliance violation" means as defined in W.S. 7-13-401(a)(xv);

(iii) "Department" means the department of corrections.

7-13-1802. Authorized sanctions.

(a) The sanctions authorized under W.S. 7-13-1801(a) may include:

(i) Loss or restriction of privileges;

(ii) Community service;

(iii) Placement in an intensive supervision program established under W.S. 7-13-1102 or a nonresidential community correctional program established under W.S. 7-18-103 or 7-18-104;

(iv) Custodial sanctions authorized under subsection (b) of this section, subject to any procedure required under W.S. 7-13-1803 and any rules promulgated under W.S. 7-13-1801(a).

(b) Subject to the requirements in W.S. 7-13-1803(c), custodial sanctions authorized by W.S. 7-13-1801(a) for compliance violations shall include one (1) or more of the following:

(i) A sanction of time served in custody between arrest and hearing or between arrest and the disposition of the alleged violation if a hearing is not held;

(ii) Immediate confinement in a consenting Wyoming county jail, to be imposed as a two (2) or three (3) day consecutive period;

(iii) Confinement in a consenting Wyoming county jail for up to fifteen (15) consecutive days in addition to any time served between arrest and hearing;

(iv) Confinement for up to ninety (90) days in a residential community correction program established under W.S. 7-18-103 or 7-18-104 coupled with substance abuse treatment, cognitive-behavioral programming to address criminal thinking or other programming that the department deems appropriate;

(v) Confinement for up to ninety (90) days in a consenting Wyoming county jail coupled with substance abuse treatment contracted with and paid for by the department;

(vi) Incarceration in a state penal institution for up to ninety (90) days coupled with substance abuse treatment, cognitive-behavioral programming to address criminal thinking or other programming that the department deems appropriate.

7-13-1803. Procedure for imposing sanctions; housing violators; civil actions against officials.

(a) A probation and parole agent who reasonably believes that a defendant, probationer, parolee or conditional releasee has committed one (1) or more compliance violations that require a sanction shall utilize sanctions available within the incentives and sanctions system to determine an appropriate response. Subject to subsection (d) of this section, the agent shall initiate a hearing in accordance with subsection (b) of this section and W.S. 7-13-408 and shall attempt to gain the person's compliance with the conditions of probation, parole or conditional release through the sanctions provided in W.S. 7-13-1802.

(b) Any hearing under this section shall be before the field services administrator, his designated hearing officer or any other person authorized pursuant to the laws of this state to hear cases of alleged probation, parole or conditional release violations, except that no hearing officer shall be the

person making the allegation of violation. If the hearing officer determines by a preponderance of the evidence that the defendant, probationer, parolee or conditional releasee has violated a condition of probation, parole or conditional release, the hearing officer shall utilize the incentives and sanctions system to determine an appropriate response, which may include the sanctions authorized under W.S. 7-13-1802.

(c) Any imposition of custodial sanctions shall be subject to the following conditions:

(i) All time in custody related to the compliance violation shall be credited toward the defendant's, probationer's, parolee's or conditional releasee's sentence;

(ii) The total of all confinement under W.S. 7-13-1802(b)(i) and (ii) shall not exceed eighteen (18) days during the term of probation, parole or conditional release;

(iii) Cumulative custodial sanctions imposed under W.S. 7-13-1802(b)(i) through (iii) shall not exceed ninety (90) days during the term of probation, parole or conditional release prior to any revocation.

(d) A hearing shall be held before custodial sanctions are imposed. The imposition of sanctions shall not require a hearing if:

(i) The probationer or parolee is a participant in the intensive supervision program pursuant to W.S. 7-13-1105;

(ii) The probationer is a qualified offender whose probation has been previously revoked pursuant to W.S. 7-13-1303(d); or

(iii) The probationer or parolee consents to the administrative sanction without a hearing.

(e) Upon agreement of the sheriff and the director of the department of corrections, the probationer, parolee or conditional releasee may be maintained at the county jail at an agreed per diem rate to be paid by the department. The department shall pay for any medical treatment of the probationer, parolee or conditional releasee, other than for conditions demanding immediate medical attention which can be treated at the county jail for which the county is liable under W.S. 18-6-303(c)(i). Except for emergency medical treatment, no

treatment which is the responsibility of the department under this subsection shall be provided without the prior approval of the department.

(f) If any civil action is brought against any sheriff, his undersheriff, deputy, agent or employee, by reason of acts committed or allegedly committed in the performance of necessary duties in connection with the housing and care of a probation, parole or conditional release violator under this section, the state shall indemnify and hold harmless the officers, agents or employees from all civil liability incurred or adjudged except punitive damage awards. Upon request, the state shall provide legal counsel at the state's expense to assist in the defense of any action referred to in this subsection.

(g) Probationers, parolees and conditional releasees committed to the county jail or a residential community correctional program pursuant to this section shall be housed in accordance with subsection (e) of this section or W.S. 7-18-115(b).

CHAPTER 14
REMEDY FOR VIOLATION OF CONSTITUTIONAL RIGHTS

7-14-101. Definition of "this act"; commencement and conduct of proceedings.

(a) As used in W.S. 7-14-101 through 7-14-108 "this act" means W.S. 7-14-101 through 7-14-108.

(b) Any person serving a felony sentence in a state penal institution who asserts that in the proceedings which resulted in his conviction or sentence there was a substantial denial of his rights under the constitution of the United States or of the state of Wyoming, or both, may institute proceedings under this act. The proceeding shall be commenced by filing with the clerk of the court where the conviction occurred a petition verified by affidavit. A copy of the petition shall be served by the inmate on the Wyoming attorney general by mail or by some other method reasonably calculated to assure prompt and verifiable service. The clerk shall docket the petition upon receipt and bring it promptly to the attention of the court.

(c) Unless otherwise inconsistent with the provisions of this act, proceedings under this act shall be conducted pursuant to the Wyoming Rules of Civil Procedure and the Wyoming Rules of Evidence, except:

(i) Any evidentiary hearing shall be conducted before the court without a jury; and

(ii) Rules 3, 4, 14, 22, 23, 24, 38, 39, 40.1, 42, 47, 48, 51, 55, 59 and 64 through 71.1 of the Wyoming Rules of Civil Procedure shall not apply to proceedings under this act.

7-14-102. Contents of petition.

(a) The petition shall state:

(i) The proceeding in which the petitioner was convicted;

(ii) The date of the rendition of the final judgment;

(iii) The facts which show the petitioner's constitutional rights were violated; and

(iv) Any previous proceedings in which the petitioner has been involved to secure relief from his conviction.

(b) The petition shall be accompanied by affidavits, records or other evidence supporting the allegations or shall state why the same are not attached.

(c) The petition may contain argument, citations and discussion of authorities.

7-14-103. Claims barred; applicability of act.

(a) A claim under this act is procedurally barred and no court has jurisdiction to decide the claim if the claim:

(i) Could have been raised but was not raised in a direct appeal from the proceeding which resulted in the petitioner's conviction;

(ii) Was not raised in the original or an amendment to the original petition under this act; or

(iii) Was decided on its merits or on procedural grounds in any previous proceeding which has become final.

(b) Notwithstanding paragraph (a)(i) of this section, a court may hear a petition based on any of the following:

(i) The petitioner sets forth facts supported by affidavits or other credible evidence which was not known or reasonably available to him at the time of a direct appeal;

(ii) The court finds from a review of the trial and appellate records that the petitioner's appellate counsel provided constitutionally ineffective assistance by failing to assert a claim that was likely to result in a reversal of the petitioner's conviction or sentence on his direct appeal. This finding may be reviewed by the supreme court together with any further action of the district court taken on the petition; or

(iii) The petitioner was represented by the same attorney in the trial and appellate courts.

(c) This act does not apply to claims of error or denial of rights in any proceeding:

(i) For the revocation of probation or parole;

(ii) Provided by statute or court rule for new trial, sentence reduction, sentence correction or other post-verdict motion.

(d) No petition under this act shall be allowed if filed more than five (5) years after the judgment of conviction was entered.

7-14-104. No right to appointed counsel.

(a) Repealed by Laws 1990, ch. 95, § 2.

(b) Repealed by Laws 1990, ch. 95, § 2.

(c) An indigent petitioner seeking relief under this act is not entitled to representation by the state public defender or by appointed counsel.

7-14-105. Answer by state; withdrawal of petition; amendments and further pleadings.

(a) Within forty-five (45) days after being ordered to respond to the petition by the court, or within any further time as the court may fix, the attorney general on behalf of the state shall answer or move to dismiss the petition. No other or

further pleadings shall be filed except as the court may order on its own motion or on that of either party.

(b) The court may grant leave to the petitioner, at any stage of the proceeding prior to entry of judgment, to withdraw the petition.

(c) The court may by order authorize:

(i) Amendment of the petition or any other pleadings;

(ii) The filing of further pleadings; or

(iii) An extension of the time for filing any further pleading other than the original petition.

7-14-106. Evidence received by court; orders entered upon favorable finding; contents of final judgment or order.

(a) The court may, if it determines it to be necessary, receive proof by affidavits, deposition, oral testimony or other evidence and may order the petitioner brought before the court for the hearing.

(b) If the court finds in favor of the petitioner, it shall enter an appropriate order with respect to the judgment or sentence in the former proceedings and any supplementary orders as to rearraignment, retrial, custody, bail or discharge as may be necessary and proper.

(c) The final judgment or order on a petition under this act shall state the basis for the court's decision and may contain findings of fact and conclusions of law.

7-14-107. Appellate review.

Any final judgment or order entered upon a petition under this act may be reviewed by the supreme court on writ of certiorari upon the petition of either party pursuant to the Wyoming Rules of Appellate Procedure.

7-14-108. Existing statutory provisions.

W.S. 7-14-101 through 7-14-108 shall not repeal any existing laws.

INTERSTATE DETAINERS

7-15-101. Contents and form of agreement on detainers.

The agreement on detainers is hereby enacted into law and entered into by the state of Wyoming with all other jurisdictions legally joining therein in the form substantially as follows: the contracting states solemnly agree that:

Article I

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trials of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

Article II

(a) As used in this agreement:

(i) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the commonwealth of Puerto Rico;

(ii) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof;

(iii) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

Article III

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial at the next term of court after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint; provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify

all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

Article IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V (a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request; and provided further that there shall be a period of thirty (30) days after receipt by the appropriate authorities before the request be honored, within which period the governor of the

sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this article, trial shall be commenced within one hundred twenty (120) days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V (e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

Article V

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request

for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(i) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given;

(ii) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the periods provided by this act, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one (1) or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purpose of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one (1) or more untried indictments, informations or complaints are pending or in which trial is being had, shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

Article VI

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

Article VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

Article VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect nor shall it affect their rights in respect thereof.

Article IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the states affected as to all severable matters.

7-15-102. Additional definitions; short title.

(a) As used in W.S. 7-15-101 through 7-15-105:

(i) "Appropriate court" means district court when the reference is to a court of this state;

(ii) "This act" or "this agreement" means W.S. 7-15-101 through 7-15-105.

(b) This act may be cited as the "Agreement on Detainers".

7-15-103. Cooperation in enforcement of agreement.

All courts, departments, agencies, officers and employees of this state and its political subdivisions shall enforce the Agreement on Detainers and cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.

7-15-104. Delivery of inmate to another state.

It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to deliver an inmate of the institution to the proper authority of another party state if required under the Agreement on Detainers.

7-15-105. Duties of attorney general.

The attorney general shall act as coordinator of this agreement and, acting jointly with like officers of party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this act, and shall provide within and without the state, information necessary to the effective operation of this agreement.

CHAPTER 16
LABOR BY PRISONERS

ARTICLE 1
COUNTY JAIL

7-16-101. Persons subject to required work.

(a) The sentencing court may require the following persons to perform work pursuant to W.S. 7-16-101 through 7-16-104:

(i) Persons sentenced to a definite term of imprisonment in the county jail, whether or not a fine is imposed as a part of the sentence;

(ii) Persons committed to jail pursuant to W.S. 6-10-105 for refusal to pay a fine or costs; and

(iii) Persons for whom work is imposed as a condition of probation pursuant to W.S. 7-13-304(b).

(b) No person charged with a crime and awaiting the action of the grand jury or awaiting trial shall be required to perform work pursuant to W.S. 7-16-101 through 7-16-104.

7-16-102. Restrictions; supervision; costs; civil liability.

(a) No prisoner shall be required to perform work more than eight (8) hours in any one (1) calendar day or to work on any legal holiday.

(b) No person shall be required to perform work who is unable to do so due to physical or mental disability.

(c) The court shall direct whether the work shall be performed under the supervision of the county sheriff, the state probation and parole officer or some other responsible person approved by the court. No person shall be directed to perform work unless the court, after consultation with the sheriff or other entity or person to be charged with supervision, determines that adequate staffing is available to provide for the safe and secure supervision of the prisoner.

(d) Any additional expenses, including costs for guarding the prisoner, incurred by a county as a result of allowing a prisoner to perform work shall be paid by the board of county commissioners in which the labor is performed but may be assessed against any financial credit earned by the prisoner under W.S. 7-16-104. The court may also require that a reasonable sum for room and board be assessed against any credits earned by a prisoner.

(e) The person charged with supervising a prisoner's work shall keep an accurate record and account of all work performed and all credits received and shall make periodic reports as required by the court.

(f) The court may impose any other reasonable terms or conditions relating to the performance of work by prisoners and probationers, not inconsistent with W.S. 7-16-101 through 7-16-104.

(g) If any civil action is brought against any sheriff, his undersheriff, deputy, agent or employee, by reason of acts committed or alleged in the performance of necessary duties in connection with the care of a prisoner performing work pursuant to W.S. 7-16-101 through 7-16-104, the state shall indemnify and

hold harmless the officers, agents or employees from all civil liability incurred or adjudged except for liability arising out of willful and wanton or malicious acts. Upon request, the state shall provide legal counsel at state expense to assist in the defense of any action covered by this subsection.

7-16-103. Compensation of sheriff.

Except for reimbursement for additional expenses authorized by W.S. 7-16-102(d), a sheriff is not entitled to any extra compensation, fee or reward for supervising a prisoner performing work pursuant to W.S. 7-16-101 through 7-16-104.

7-16-104. Credits.

(a) The sentencing court may reduce the term of a sentence, fine, costs or attorney fees of a prisoner sentenced to imprisonment or placed on probation, for work performed under W.S. 7-16-101 through 7-16-104.

(b) If a reduction is ordered pursuant to subsection (a) of this section, the reduction shall be:

(i) At the rate of one (1) day for each eight (8) hours of work performed under W.S. 7-16-101 through 7-16-104, provided the reduction in sentence shall not exceed one-half (1/2) of the original sentence;

(ii) In an amount equal to the federal minimum hourly wage for each hour of work performed provided that the total amount of reduction in the fine, costs or attorney fees shall not exceed one-half (1/2) of the total amount of the fine, costs and attorney fees.

(c) The court shall direct whether the credits under subsection (b) of this section shall apply against the prisoner's term of imprisonment, his fine, court costs, attorney fees or other fees imposed by the court.

(d) A person committed to county jail for refusal to pay a fine or costs shall, in addition to the credit allowed by W.S. 6-10-105, be granted a credit against his fine or costs in an amount equal to the federal minimum hourly wage for each hour of work performed.

ARTICLE 2
PRISON LABOR

7-16-201. Contracting to private persons.

Except as authorized by W.S. 25-13-101 through 25-13-107, no person in charge of prisoners at any state penal institution shall contract to supply prisoner labor to any private person or private business entity.

7-16-202. Persons subject to required work.

(a) All prisoners sentenced to the custody of the department of corrections to serve a term of imprisonment in a state penal institution may be employed within the institution or in any work for the benefit of and use by the state or any of its agencies or political subdivisions.

(b) An inmate of a state penal institution shall be required to perform available hard labor which is suited to the inmate's age, gender, physical and mental condition, strength and attainments in the institution proper, in the industries established in connection with the institution, or at other places as provided in subsection (a) of this section. Substantially equivalent hard labor programs shall be available to both male and female inmates. Inmates performing hard labor at a location other than within or on the grounds of a state penal institution shall be attired in brightly colored uniforms that readily identify them as inmates of state penal institutions. The employment of inmates in hard labor shall not displace employed workers, shall not be applied to skills, crafts or trades in which a local surplus of labor exists, and shall not impair existing contracts for employment or services.

(c) For purposes of this section, "hard labor" means physical or mental labor which is performed for a period of time which shall average, as nearly as possible, forty (40) hours each week, and may include useful and productive work. "Hard labor" may include menial labor, any training necessary to perform any work required, and if possible, work providing an inmate with marketable vocational skills. "Hard labor" does not include labor which is dangerous to an inmate's life or health, is unduly painful or is required to be performed under conditions that would violate occupational safety and health standards applicable to such labor if performed by a person who is not an inmate.

(d) Notwithstanding subsection (b) of this section, an inmate who has been determined by the institution administrator

to be unsuitable for the performance of hard labor due to the inmate's age, gender, physical or mental condition, strength or security status shall not be required to perform hard labor.

(e) The department of corrections shall adopt rules to implement this section.

7-16-203. Compensation.

(a) Persons in confinement in state corrections institutions may receive compensation as specified by the department of corrections for services performed under W.S. 7-16-202. In no case shall the total of all compensation credited exceed the general fund appropriation for that institution. The compensation rate to be paid to any prisoner shall not exceed the state minimum wage.

(b) The compensation limitations in subsection (a) of this section do not apply to correctional industries programs authorized under W.S. 25-13-101 through 25-13-107.

7-16-204. Fines for misconduct.

The department of corrections shall adopt rules and regulations to establish a system for punishing prisoner misconduct through the imposition of fines to be deducted from compensation earned as provided by W.S. 7-16-203. The rules shall provide for the distribution of the proceeds of fines collected under this section as special aid to discharged or paroled prisoners who are infirm or in any way incapable of earning a sufficient subsistence after their release.

7-16-205. Disposition of earnings; confidentiality of amount.

(a) Payment for services performed by any prisoner under W.S. 7-16-202 shall be deposited in the trust and agency account at the institution and shall be disbursed for the purposes provided in this subsection and in the order specified:

(i) Unless the prisoner is serving a sentence of death or life without the possibility of parole or is subject to mandatory savings under W.S. 25-13-107(b)(i), ten percent (10%) shall be credited to the prisoner's personal savings account within the correctional facility's trust and agency account, until the prisoner's account has a balance of one thousand dollars ($1,000.00). Once the prisoner's personal savings

account balance reaches one thousand dollars ($1,000.00), the income otherwise distributed to the prisoner's savings account under this paragraph shall be distributed to the prisoner as provided by paragraphs (ii) through (vi) of this subsection. Funds in the prisoner's personal savings account shall be paid to the prisoner upon parole or final discharge;

(ii) Support of dependent relations of the prisoner;

(iii) Personal necessities and assessments of fees for programs, services and assistance pursuant to subsection (e) of this section;

(iv) Repealed By Laws 1999, ch. 62, § 2.

(v) Court ordered restitution, fines, sanctions and reimbursement for the services of public defender or court appointed counsel, the surcharge imposed under W.S. 1-40-119, victims compensation obligations under W.S. 1-40-112(g) and the surcharge imposed under W.S. 7-13-1616;

(vi) Remaining funds shall be paid the prisoner upon parole or final discharge.

(b) The amount in the trust and agency fund assigned to the credit of any prisoner is confidential information and is not subject to public inspection.

(c) Except as otherwise provided for correctional industries programs authorized by W.S. 25-13-101 through 25-13-107, any compensation earned by a prisoner while incarcerated shall be subject to the provisions of this section.

(d) The department of corrections shall establish regulations governing provisions for travel, clothing and cash needed by each prisoner upon release from any state penal institution.

(e) The department of corrections may establish regulations providing for assessment of fees to prisoners for self-improvement programs, services, including medical services, and assistance provided by the department when the inmate has money to pay for the programs, services and assistance.

7-16-206. Permitted institutional industries; powers of department.

(a) The department of corrections, for purposes of assisting in the rehabilitation of residents of state penal institutions, may:

(i) Establish industries in state penal institutions that will result in the manufacture of products or the provision of services that may be used by any agency or political subdivision of this state, any agency of the federal government or any agency or political subdivision of another state;

(ii) Contract with private industry for the sale of products manufactured in state penal institutions and for the provision of services pursuant to W.S. 25-13-104;

(iii) Print and distribute catalogs describing goods manufactured in state penal institutions;

(iv) Fix the sale price for products manufactured or services produced at state penal institutions and purchased by the state of Wyoming or any of its political subdivisions, not to exceed open market prices for comparable goods and services;

(v) Provide for the repair and maintenance of property and equipment of state penal institutions by residents of those institutions;

(vi) Provide for the repair and maintenance of any state agency's furniture and equipment by residents of state penal institutions;

(vii) Sell on the open market products manufactured at state penal institutions; and

(viii) Pay a resident of a penal institution from the proceeds of products manufactured or services provided in a program in which the resident is working pursuant to this subsection.

(b) Payment for the performance of work authorized pursuant to subsection (a) of this section shall be based in part on the following criteria:

(i) Knowledge or skill;

(ii) Attitude toward authority;

(iii) Physical effort;

(iv) Responsibility for equipment and materials; and

(v) Regard for safety of others.

(c) A manufactured product shall not be sold under paragraph (a)(ii) or (vii) of this section if the same or comparable product is manufactured elsewhere in this state.

(d) The maximum rate of pay for work performed pursuant to subsection (a) of this section shall be determined by the appropriation established for each program in accordance with W.S. 7-16-202 through 7-16-205.

(e) Proceeds from the sale of products manufactured or services provided at a state penal institution pursuant to subsection (a) of this section shall be deposited in the correctional industries account in accordance with W.S. 25-13-103(a).

ARTICLE 3
WORK RELEASE

7-16-301. Repealed By Laws 2014, Ch. 117, § 2.

7-16-302. Repealed By Laws 2014, Ch. 117, § 2.

7-16-303. Repealed By Laws 2014, Ch. 117, § 2.

7-16-304. Repealed By Laws 2014, Ch. 117, § 2.

7-16-305. Repealed By Laws 2014, Ch. 117, § 2.

7-16-306. Repealed By Laws 2014, Ch. 117, § 2.

7-16-307. Repealed By Laws 2014, Ch. 117, § 2.

7-16-308. Repealed By Laws 2014, Ch. 117, § 2.

7-16-309. Repealed By Laws 2014, Ch. 117, § 2.

7-16-310. Repealed By Laws 2014, Ch. 117, § 2.

7-16-311. Repealed By Laws 2014, Ch. 117, § 2.

CHAPTER 17
ROADBLOCKS

7-17-101. Definitions.

(a) As used in W.S. 7-17-101 through 7-17-103:

(i) "Peace officer" means as defined by W.S. 7-2-101;

(ii) "Temporary roadblock" means any device or means used by a peace officer to control all traffic through a point on any highway within the state whereby all vehicles may be slowed or stopped for the purposes defined in W.S. 7-17-102;

(iii) "Highway" means as defined by W.S. 31-1-101(a)(viii).

7-17-102. Authority to establish.

Peace officers may establish, in their respective or adjacent jurisdictions, temporary roadblocks upon the highways within this state for the purpose of apprehending persons reasonably believed by the officers to be wanted for violation of the laws of this or any other state, or of the United States, and who are using any highway within the state.

7-17-103. Minimum requirements.

(a) For the purpose of warning and protecting the traveling public, the following minimum requirements shall be met by peace officers establishing temporary roadblocks if time and circumstances allow:

(i) The temporary roadblock shall be established at a point on the highway clearly visible at a distance of not less than two hundred (200) yards in either direction;

(ii) At the point of the temporary roadblock flashing warning lights shall be visible to oncoming traffic for a distance of not less than two hundred (200) yards. The display of flashing emergency warning lights on a marked law enforcement vehicle shall be sufficient under this paragraph; and

(iii) At least one (1) person working a temporary roadblock shall be in uniform and visible and at least one (1) vehicle used in a temporary roadblock shall be clearly marked as a law enforcement vehicle.

COMMUNITY CORRECTIONS

7-18-101. Short title.

This act shall be known and may be cited as the "Adult Community Corrections Act".

7-18-102. Definitions.

(a) As used in this act:

(i) "Adult community correctional facility or program" means a community based or community-oriented facility or program which is operated either by a unit of local government or by a nongovernmental agency which:

(A) May provide residential and nonresidential accommodations and services for offenders, parolees and inmates;

(B) Provides programs and services to aid offenders, parolees and inmates in obtaining and holding regular employment, in enrolling in and maintaining academic courses, in participating in vocational training programs, in utilizing the resources of the community in meeting their personal and family needs and in participating in whatever specialized treatment programs exist within the community; and

(C) Provides supervision for offenders, parolees and inmates as required.

(ii) "Corrections board" means a community corrections board created pursuant to this act;

(iii) "Inmate" means an adult serving a felony sentence in any state penal institution or any correctional facility operated pursuant to a contract under W.S. 7-22-102, excluding any inmate who:

(A) At the time of consideration has any criminal proceedings pending against him which could affect his status as an inmate;

(B) Has been convicted of first degree murder;

(C) Is serving a term of life imprisonment; or

(D) Has been sentenced to death.

(iv) "Nongovernmental agency" means any person or organization other than a unit of local government and includes private profit and not for profit organizations;

(v) "Offender" means an adult who has entered a plea of guilty or has been convicted of a misdemeanor punishable by imprisonment or a felony, excluding any person who:

(A) At the time of consideration has any other felony criminal proceedings pending against him;

(B) Has been convicted of, or pled guilty to, first degree murder;

(C) Has been convicted of, or pled guilty to, a crime punishable by life imprisonment; or

(D) Has been convicted of, or pled guilty to, a crime punishable by death.

(vi) "Unit of local government" means a county, city or town;

(vii) "Department" means the state department of corrections;

(viii) "Parolee" means an adult who has been granted parole under W.S. 7-13-402;

(ix) "Validated risk-need assessment" means as defined in W.S. 7-13-1101(a)(iii);

(x) "This act" means W.S. 7-18-101 through 7-18-115.

7-18-103. Establishment and operation of facilities and programs by local governments; screening procedures; acceptance or rejection of offenders, parolees or inmates.

(a) Any unit of local government may establish, maintain and operate adult community correctional facilities and programs deemed necessary to serve its own needs and may enter into contracts or agreements with a corrections board for the placement of offenders, parolees and inmates in its adult community correctional facility or program.

(b) The unit of local government shall establish procedures for screening offenders, parolees and inmates who are to be placed in its adult community correctional facility or program. The screening shall take into account the risk the offender, parolee or inmate may present to himself and others as well as the aptitude, attitude and social and occupational skills of the offender, parolee or inmate.

(c) The unit of local government has the authority to accept, reject or reject after acceptance the placement of any offender, parolee or inmate in its adult community correctional facility or program pursuant to any contract or agreement with a corrections board. If an offender, parolee or inmate is rejected by the unit of local government after initial acceptance, the offender, parolee or inmate shall remain in the custody of the unit of local government for a reasonable period of time pending receipt of appropriate orders for transfer of the offender, parolee or inmate.

7-18-104. Establishment and operation of facilities or programs by nongovernmental agencies; required governmental approval; acceptance or rejection of offenders, parolees or inmates.

(a) If approved as provided in subsection (b) of this section, a nongovernmental agency may establish, maintain and operate an adult community correctional facility and program and may contract with a corrections board to provide services to offenders, parolees and inmates.

(b) The establishment of any nongovernmental adult community correctional facility or program shall be subject to approval of the board of county commissioners of the county and the governing body of the city or town in which the proposed facility or the situs of the program is to be located. Approval or denial of the establishment of the facility or program shall be made only after consultation with the corrections board and the department.

(c) The nongovernmental agency operating an adult community correctional facility or program has the authority to accept, reject or reject after acceptance the placement of any offender, parolee or inmate in its facility or program pursuant to any contract or agreement with a corrections board. If an offender, parolee or inmate is rejected by the nongovernmental agency after initial acceptance, the offender, parolee or inmate shall remain in the custody of the nongovernmental agency for a

reasonable period of time pending receipt of appropriate orders for transfer of the offender, parolee or inmate.

7-18-105. Establishment of county boards; membership; terms of office; compensation; meetings; officers.

(a) A county may establish, or two (2) or more counties may agree to establish jointly, a community corrections board in accordance with this act.

(b) A corrections board shall consist of nine (9) members appointed by the county commissioners. When two (2) or more counties have agreed to establish a corrections board, the county commissioners of each participating county shall appoint members as provided in the agreement of the counties. The corrections board shall be composed of:

(i) One (1) district judge designated by the chief justice of the Wyoming supreme court;

(ii) One (1) prosecuting attorney;

(iii) One (1) municipal law enforcement officer;

(iv) One (1) county law enforcement officer;

(v) One (1) probation and parole officer; and

(vi) Four (4) lay citizens, no more than two (2) of whom shall be from the same county if the corrections board is established by two (2) or more counties. If the community corrections board is established for a county in which a community college is located, one (1) of the four (4) lay citizen members shall be a representative of the community college.

(c) Members of community corrections boards shall serve for rotating terms of four (4) years. Of the members first appointed, one-third (1/3) shall be appointed for two (2) years, one-third (1/3) for three (3) years and one-third (1/3) for four (4) years.

(d) Members of a corrections board shall serve without compensation.

(e) A majority of the corrections board constitutes a quorum. All actions of the corrections board shall be approved by a majority of those present at the meeting.

(f) A corrections board shall annually elect from its members a chairman to preside at meetings, a secretary to maintain the records and a finance officer who shall file with the board a bond with an approved corporate surety in the penal sum designated by the corrections board.

7-18-106. Powers and duties of boards.

(a) Subject to this act, a corrections board may:

(i) Contract with the department to accept offenders, parolees and inmates for placement in an adult community correctional facility or program operating under a contract for services with the corrections board within the county or counties served by the corrections board;

(ii) Repealed By Laws 2003, Ch. 42, § 2.

(iii) Accept, reject or reject after acceptance the placement pursuant to a contract with the department, of any offender, parolee or inmate in an adult community correctional facility or program. If an offender, parolee or inmate is rejected by the corrections board after initial acceptance, the offender, parolee or inmate shall be placed in the custody of a sheriff of a county served by the corrections board for a reasonable period of time pending receipt of appropriate orders for the transfer of the offender, parolee or inmate.

(b) A corrections board shall:

(i) Screen all offenders, parolees and inmates proposed to be placed in an adult community correctional facility or program taking into account the potential risk resulting from the placement of the offender, parolee or inmate as well as the aptitude, attitude and social and occupational skills of the offender, parolee or inmate;

(ii) Review, inspect and evaluate all adult community correctional facilities and programs operating within the county or counties served by the corrections board; and

(iii) If the offender is a convicted misdemeanant, obtain funding for the placement from nonstate sources.

(c) Notwithstanding W.S. 1-39-101 through 1-39-120 or any other provision of law and except for intentional torts or illegal acts, a corrections board and its members are immune from any liability, either as a board or individually, for any actions or omissions by the board or any member thereof pursuant to this act.

7-18-107. Required guidelines in contracts; review by local government.

(a) Every contract for services entered into pursuant to this act between a corrections board and a local unit of government or a nongovernmental agency shall provide guidelines for the operation of the adult community correctional facility or program and minimum standards for the services provided, including:

(i) Requirements for strict accountability procedures and practices for the conduct and supervision of offenders, parolees and inmates including requirements for twenty-four (24) hour supervision of offenders, parolees and inmates in residential programs;

(ii) Guidelines for service providers to perform periodic and unscheduled tests to determine the use of drugs by offenders, parolees and inmates; and

(iii) Guidelines for service providers to develop individual treatment plans for each offender, parolee or inmate.

(b) Prior to entering into agreement or contract with any nongovernmental adult community corrections agency, the corrections board shall submit the agreement or contract and any proposed guidelines for the use of any program or facility to the department and the governing body of any affected unit of local government for its review and recommendations.

7-18-108. Placement of offender in program by court; placement by department as administrative sanction.

(a) Subject to subsection (b) of this section, following an eligible adult offender's conviction or his plea of guilty, the sentencing court may, as a condition of probation, order that the offender participate in a residential or nonresidential adult community correctional program during all or any part of his term of probation.

(b) Placement of an offender in an adult community correctional facility or program under this section shall be made only if:

(i) The adult community correctional facility or program is operated by a governmental unit or a nongovernmental agency which has entered into a contract with the corrections board serving the county in which the defendant is sentenced and the corrections board has contracted with the department to provide adult community correctional services for offenders;

(ii) Funding for the placement is available;

(iii) The offender is acceptable to the corrections board; and

(iv) The offender is assessed through a validated risk-need assessment as a high risk for reoffending or violating a condition of probation.

(c) Prior to the placement of an offender in any nongovernmental adult community correctional facility, the sentencing judge shall notify or cause to be notified the law enforcement agencies of affected units of local government concerning the identity of the offender to be placed.

(d) The probation and parole agent for the judicial district shall include in the presentence report or otherwise recommend to the sentencing judge recommendations for the utilization of any governmental or, when available, nongovernmental adult community correctional facility or program which has been approved for use by the corrections board.

(e) The probation and parole officers for the judicial district shall have general supervisory authority over all offenders placed in adult community correctional facilities or programs under this section.

(f) Subject to subsection (b) of this section, the department may impose the administrative sanctions provided in W.S. 7-13-1802(b) on any probationer participating in an intensive supervision program who violates the rules and restrictions of the program as an alternative to probation revocation.

(g) Notwithstanding paragraph (b)(iv) of this section, placement of a probationer in an adult community correctional program as a sanction under subsection (f) of this section and W.S. 7-13-1801 through 7-13-1803 or following a revocation of probation shall not require the probationer to be assessed through a validated risk-need assessment as a high risk for reoffending or violating a condition of probation.

7-18-109. Transfer of inmate to facility by department.

(a) Subject to subsection (b) of this section, and upon recommendation of the warden or superintendent of the institution, the department may transfer an adult inmate to a residential adult community correctional facility.

(b) A transfer of an inmate to a residential adult community correctional facility under this section may be made only if:

(i) The department determines the inmate poses a low risk of escape or violence;

(ii) The inmate is eligible under W.S. 7-18-102(a)(iii);

(iii) The inmate is within at least twenty-four (24) months of his parole eligibility date and his conduct during his confinement has been such that he is appropriate for placement;

(iv) The residential adult community correctional facility is operated under a contract with a corrections board and the corrections board has contracted with the department to provide services which include placement of pre-parole inmates;

(v) The inmate has been accepted by the corrections board;

(vi) Funding for the placement is available; and

(vii) The department determines the correctional needs of the inmate will be better served by the transfer.

(c) Prior to the placement of an inmate in any nongovernmental adult community correctional facility, the department shall notify or cause to be notified the law enforcement agencies of affected units of local government concerning the identity of the inmate to be placed.

(d) No inmate shall be transferred to a residential adult community corrections facility under this section unless he agrees in writing to abide by the regulations of the program provider and any additional conditions imposed by the department. Approval of a transfer under this section is not a discharge of the inmate but shall be construed as an extension of the limits of confinement of the institution to which the inmate was committed. The department may revoke the approval of the transfer of an inmate under this section at any time for violation by the inmate of any conditions of the placement. Upon revocation the inmate shall be returned to the physical custody of the department.

(e) The probation and parole officers for the judicial district shall have general supervisory authority over all inmates in adult community correctional facilities or programs under this section.

7-18-110. Authority of department of corrections to contract for services.

(a) Subject to legislative appropriation, the department may, by negotiation without competitive bids or by competitive bidding, contract with any community corrections board created under this act, to provide services for:

(i) Convicted felony offenders ordered by a sentencing court to participate in adult community correctional facilities or programs as a condition of probation;

(ii) Inmates transferred to a residential adult community correctional facility by the department pursuant to W.S. 7-18-109; or

(iii) Parolees required to participate in a residential or nonresidential adult community correctional program as a condition of parole pursuant to W.S. 7-18-115.

(b) No inmate, parolee or offender shall be deemed to be a third party beneficiary of, or to be otherwise entitled to enforce any provision of, any contract entered into under subsection (a) of this section.

7-18-111. Duties of department of corrections.

(a) The department shall:

(i) Establish minimum facility standards for residential adult community correctional facilities operated by any entity receiving funds under this act;

(ii) Establish minimum standards for adult community correctional programs;

(iii) Review and evaluate all adult community correctional facilities and programs funded under this act;

(iv) Prescribe accounting and reporting standards for all program providers under this act;

(v) Establish a per diem rate to be paid program providers under this act which shall not exceed the daily cost of keeping an inmate at the Wyoming state penitentiary;

(vi) Promulgate rules and regulations reasonably necessary to carry out the provisions of this act.

7-18-112. Escape.

(a) An offender, parolee or an inmate is deemed guilty of escape from official detention and shall be punished as provided by W.S. 6-5-206(a)(i) if, without proper authorization, he:

(i) Fails to remain within the extended limits of his confinement or to return within the time prescribed to an adult community correctional facility to which he was assigned or transferred; or

(ii) Being a participant in a program established under the provisions of this act he leaves his place of employment or fails or neglects to return to the adult community correctional facility within the time prescribed or when specifically ordered to do so.

7-18-113. Confinement of violators.

If the administrator of an adult community correctional facility or any other appropriate supervising authority has cause to believe that an offender, parolee or inmate placed in an adult community correctional facility has violated any rule or condition of that person's placement in that facility or any term of post-release supervision or cannot be safely housed in that facility, the administrator or other authority shall

certify to the department the facts which are the basis for the belief and execute a transfer order to the sheriff of the county in which the facility is located, who shall confine the offender, parolee or inmate in the county jail pending a determination by the appropriate judicial or executive authorities as to whether or not the offender, parolee or inmate shall remain in community corrections.

7-18-114. Record and disbursement of wages; exemption from process; confidentiality of amount.

(a) Wages earned by an inmate, parolee or offender while in an adult community corrections program shall be retained and accounted for by the program operator and shall be disbursed for the purposes provided in this subsection and in the order specified:

(i) Personal necessities;

(ii) Room and board to the program operator at a rate to be established by the department;

(iii) Support of dependent relations;

(iv) Court ordered restitution, fines, sanctions and reimbursement for the services of public defender or court appointed counsel, the surcharge imposed under W.S. 1-40-119, victims compensation obligations under W.S. 1-40-112(g) and the surcharge imposed under W.S. 7-13-1616;

(v) Repealed By Laws 1999, ch. 62, § 2.

(vi) Costs of health insurance; and

(vii) Remaining funds shall be paid to the inmate, parolee or offender upon parole or final discharge.

(b) Wages earned by offenders, other than parolees or inmates, while in a residential adult community corrections program shall be retained and accounted for by the program operator and shall be disbursed only for the purposes and in the order specified in subsection (a) of this section unless otherwise ordered by the sentencing court. Any remaining funds shall be paid to the offender upon his satisfactory discharge from the program. Upon revocation of an offender's probation, the program operator shall forward any remaining funds to the

court or to the institution to which the offender is sentenced as directed by the court.

(c) Program operators shall keep an accurate record and account of all wages earned by inmates, parolees and offenders pursuant to the rules promulgated by the department.

(d) The earnings of inmates under this act are not subject to garnishment, attachment or execution.

(e) Information relating to the amount of wages earned by an inmate, parolee or offender in an adult community corrections program is confidential and is not subject to public inspection.

7-18-115. Assignment of parolee to program by state board of parole; placement by department as administrative sanction.

(a) Subject to subsection (b) of this section, the state board of parole may, as a condition of parole, require a parolee to participate in a residential or nonresidential adult community correctional program during all or any part of his term of parole.

(b) Placement of a parolee in an adult community correctional facility or program under this section shall be made only if:

(i) Repealed by Laws 2019, ch. 116, § 3.

(ii) The adult community correctional facility or program is operated under a contract with a corrections board and the corrections board has contracted with the department to provide services which include placement of parolees;

(iii) The parolee has been accepted by the corrections board;

(iv) Funding for the placement is available; and

(v) The offender is assessed through a validated risk-need assessment as a high risk of reoffending or violating a condition of parole.

(c) Prior to the placement of a parolee in any nongovernmental adult community correctional facility, the department shall notify or cause to be notified the law

enforcement agencies of affected units of local government concerning the identity of the parolee to be placed.

(d) No parolee shall be paroled to an adult residential community corrections facility under this section unless he agrees in writing to abide by the regulations of the program provider and any additional conditions imposed by the state board of parole and the department.

(e) The state board of parole may revoke a parolee's parole at any time for violation by the parolee of any conditions of the placement under this section. Upon revocation, the parolee shall be returned to the physical custody of the department.

(f) The probation and parole officers for the judicial district shall have general supervisory authority over all parolees placed in adult community correctional facilities or programs under this section.

(g) Subject to subsection (b) of this section, the department may impose the administrative sanctions provided in W.S. 7-13-1802(b) on any parolee participating in an intensive supervision program who violates the rules and restrictions of the program as an alternative to parole revocation.

(h) Notwithstanding paragraph (b)(v) of this section, placement of a parolee in an adult community correctional program authorized under this article as a sanction under subsection (g) of this section, W.S. 7-13-1801 through 7-13-1803 or following a modification or revocation of parole shall not require the parolee to be assessed through a validated risk-need assessment as a high risk for reoffending or violating a condition of probation.

CHAPTER 19
CRIMINAL HISTORY RECORDS

ARTICLE 1
IN GENERAL

7-19-101. Short title.

This act shall be known and may be cited as the "Wyoming Criminal History Record Act".

7-19-102. Scope and applicability of provisions.

(a) This act governs all systems of records for the collection, maintenance, use and dissemination of individually identifiable criminal history record information by any criminal justice agency.

(b) This act applies to criminal history record information compiled for all felonies, high misdemeanors and other misdemeanors determined by the division pursuant to W.S. 9-1-623(a) but does not apply to violations of municipal ordinances.

(c) Notwithstanding any provision of this act, specific provisions relating to confidentiality of records contained in Title 14, Wyoming statutes, shall govern in those circumstances to which the more specific statute applies. This subsection shall not apply to the disclosure requirements provided in W.S. 7-19-309.

7-19-103. Definitions.

(a) As used in this act:

(i) "Conviction data" includes records indicating criminal justice transactions related to an offense that have resulted in a conviction, guilty plea or a plea of nolo contendere of an individual;

(ii) "Criminal history record information" means information, records and data compiled by criminal justice agencies on individuals for the purpose of identifying criminal offenders consisting of identifiable descriptions of the offenders and notations or a summary of arrests, detentions, indictments, information, pre-trial proceedings, nature and disposition of criminal charges, sentencing, rehabilitation, incarceration, correctional supervision and release. Criminal history record information is limited to information recorded as the result of the initiation of criminal proceedings. It does not include intelligence data, analytical prosecutorial files, investigative reports and files or statistical records and reports in which individual identities are not ascertainable, any document relating to restoration of voting rights, or any document signed by the governor granting a pardon, commutation of sentence, reprieve, remission of fine or forfeiture or a restoration of civil rights;

(iii) "Criminal justice agency" means any agency or institution of state or local government other than the office of the public defender which performs as part of its principal function, activities relating to:

(A) The apprehension, investigation, prosecution, adjudication, incarceration, supervision or rehabilitation of criminal offenders;

(B) The collection, maintenance, storage, dissemination or use of criminal history record information.

(iv) "Division" means the Wyoming division of criminal investigation within the office of the attorney general;

(v) "High misdemeanor" means a misdemeanor for which the penalty authorized by law exceeds the jurisdiction of municipal courts;

(vi) "Interstate system" means all agreements, arrangements and systems for the interstate transmission and exchange of criminal history record information. The term does not include record keeping systems in the state maintained or controlled by any state or local agency, or group of agencies, even if the agencies receive or have received information through, or otherwise participate or have participated in, systems for the interstate exchange of criminal history record information;

(vii) "Nonconviction data" means arrest information in cases in which:

(A) There has been an acquittal, dismissal or annulment of verdict or plea;

(B) An interval of one (1) year has elapsed from the date of arrest and no active prosecution of the charge is pending;

(C) A law enforcement agency has elected not to refer a matter to a prosecutor;

(D) A prosecutor has elected not to commence criminal proceedings; or

(E) The proceedings have been indefinitely postponed.

(viii) "State" means the state of Wyoming;

(ix) "System of record" means any group of records under the control of a criminal justice agency from which information is retrieved using the name of the individual or some identifying number, symbol or other identifier particularly assigned to the individual. The term does not include records that are maintained only in chronological order or by numbers which are not particular to individuals;

(x) "This act" means W.S. 7-19-101 through 7-19-109.

7-19-104. Procedures to insure currentness of information; disposition and arrest data.

(a) The collection, storage, dissemination and use of criminal history record information under this act shall take place under procedures reasonably designed to ensure that all information is kept current.

(b) Criminal history record information collected, stored, disseminated or used under this act shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included.

7-19-105. Rules and regulations.

(a) The division shall promulgate reasonable rules and regulations to carry out the provisions of this act. The rules shall include:

(i) Standards and procedures to ensure the security and privacy of all criminal history record information and that the information is used only for criminal justice and other lawful purposes; and

(ii) Standards and procedures in conformance with this act relating to access to and dissemination of criminal history record information, research, system security, record completeness and accuracy, training, intrastate and interstate exchanges, user agreements, audits and procedures for review and challenge of records.

7-19-106. Access to, and dissemination of, information.

(a) Criminal history record information shall be disseminated by criminal justice agencies in this state, whether directly or through any intermediary, only to:

(i) Other criminal justice agencies;

(ii) Any person designated for the purpose provided by W.S. 14-6-227;

(iii) The department of family services;

(iv) Other governmental agencies as authorized by the laws of the United States or any state or by executive order;

(v) An individual who has met the requirements established by the division to ensure the record will be used solely as a statistical research or reporting record and that the record is to be transferred in a form that is not individually identifiable;

(vi) Any record subject as provided by W.S. 7-19-109;

(vii) The department of health;

(viii) The Wyoming state board of nursing for purposes of obtaining background information on applicants for licensure or certification under the board;

(ix) Court supervised treatment program staff solely for the purposes of utilizing the information pursuant to the Court Supervised Treatment Programs Act in title 7, chapter 13, article 6;

(x) Repealed By Laws 2013, Ch. 127, § 3.

(xi) The secretary of state, through the electronic voter registration system, for confirmation of the existence or nonexistence of felony conviction records of registered voters and of individuals seeking to register to vote. If the criminal history record information indicates that the subject's voting rights have been restored, that information shall also be provided. Notwithstanding subsection (c) of this section and W.S. 7-19-108, the subject's fingerprints shall not be required and no fee shall be charged. The necessary identifying information shall be provided to the division and the

disclosures made in accordance with the terms agreed upon by the secretary of state and the attorney general;

(xii) The board of examiners for optometry for purposes of obtaining background information on applicants for licensure or certification by the board;

(xiii) Any public fire department, ambulance service, counties providing fire protection services pursuant to W.S. 18-3-509, regional emergency response team or fire protection district, using paid employees or volunteers on a full-time or part-time basis, for purposes of obtaining criminal history record information on prospective employees;

(xiv) The office of homeland security for purposes of obtaining background information on prospective homeland security workers and regional emergency response team participants;

(xv) The military department for purposes of obtaining criminal history record information on prospective employees or volunteers;

(xvi) The department of transportation for purposes of dealer and wholesaler licensing and permitting under title 31, chapter 16 and for purposes of performing background checks required by W.S. 31-7-103(b) and 31-7-114(f)(iv);

(xvii) The department of audit;

(xviii) The certified real estate appraiser board for purposes of permitting or registration under title 33, chapter 39;

(xix) The state auditor;

(xx) The Wyoming retirement system;

(xxi) The board of physical therapy for purposes of obtaining background information on applicants for licensure or certification by the board;

(xxii) The state banking commissioner for purposes of licensing and registration pursuant to W.S. 40-14-604, 40-14-634, 40-14-642, 40-22-108, 40-23-103 and 40-23-125;

(xxiii) The board of medicine for purposes of obtaining background information on applicants for licensure or certification by the board whose application or other information received by the board indicates the applicant has or may have been convicted of a crime, and for purposes of investigation of complaints and disciplinary action against licensees of the board;

(xxiv) The board of midwifery for purposes of obtaining background information on applicants for licensure by the board whose application or other information received by the board indicates the applicant has or may have been convicted of a crime, and for purposes of investigation of complaints and disciplinary action against licensees of the board;

(xxv) The department of insurance, for purposes of licensing under Wyoming statutes title 26, chapter 9;

(xxvi) The Wyoming professional teaching standards board for purposes of obtaining background information on applications for certification and if requested by a school district, to school district boards of trustees for obtaining background information on employees who may have access to minors in the course of employment;

(xxvii) The department of enterprise technology services for purposes of obtaining background information on prospective and current employees;

(xxviii) A health care licensure board that licenses health care professionals under title 33 of the Wyoming statutes for purposes of obtaining background information on applicants for licensure pursuant to an interstate compact entered into by the state of Wyoming;

(xxix) The collection agency board for purposes of licensing under Wyoming statutes title 33, chapter 11;

(xxx) The department of health for purposes of obtaining background information on persons specified in W.S. 40-28-103(d) as part of a medical digital innovation sandbox application;

(xxxi) The banking commissioner or the secretary of state for purposes of obtaining background information on persons specified in W.S. 40-29-104(d) as part of a financial technology sandbox application;

(xxxii) The state treasurer.

(xxxiii) The board of examiners of speech-language pathology and audiology for purposes of obtaining background information on persons applying for licensure on or after July 1, 2020 as speech-language pathologists, audiologists or speech-language pathology assistants under Wyoming statutes title 33, chapter 33.

(b) Notwithstanding subsection (a) of this section, the division may disseminate criminal history record information to central repositories of other states and to the Federal Bureau of Investigation in accordance with rules and regulations promulgated by the division governing participation in an interstate system for the exchange of criminal history record information, and upon assurance that the information will be used only for purposes that are lawful under the laws of the other states involved or the laws applicable to the Federal Bureau of Investigation.

(c) All applications or requests to the division for criminal history record information submitted by the record subject or any other person except a criminal justice agency or the department of family services, shall be accompanied by the record subject's fingerprints in addition to any other information required by the division.

(d) No criminal justice agency or individual employed by the agency shall confirm the existence or nonexistence of criminal history record information to any person that would not be eligible to receive the information.

(e) Nothing in this act prohibits the dissemination of conviction data for purposes related to the issuance of visas and the granting of citizenship.

(f) Each person requesting criminal history record information from the division or a criminal justice agency shall upon request be advised in writing whether the person is found to be eligible or ineligible for access.

(g) No information shall be disseminated by the division or by any criminal justice agency to any person or agency prior to determination of eligibility.

(h) Each criminal justice agency holding or receiving criminal history record information shall maintain dissemination logs and other records relative to the release of the information in accordance with rules promulgated by the division.

(j) No criminal history record information released to an authorized recipient shall be released, used or disseminated by that recipient to any other person for any purpose not included in the original request except that the record subject may make further dissemination in his discretion.

(k) Notwithstanding subsection (a) of this section, the division may disseminate criminal history record information concerning a record subject, or may confirm that no criminal history record information exists relating to a named individual:

(i) In conjunction with state or national criminal history record information check under W.S. 7-19-201; or

(ii) If application is made for a voluntary record information check, provided:

(A) The applicant submits proof satisfactory to the division that the individual whose record is being checked consents to the release of the information to the applicant;

(B) The application is made through a criminal justice agency in this state authorized to access criminal history record information maintained by the division which application shall then be forwarded to the division by the criminal justice agency; and

(C) The applicant pays the fees required by W.S. 7-19-108.

(m) Notwithstanding any other provision of this act, the Wyoming department of corrections and county jails may release the following information regarding any individual, except juveniles charged with a status offense as defined by W.S. 14-6-201(a)(xxiii), who is or has been committed to the supervision or custody of the department or county jails, unless release of the information could compromise the physical safety of the individual:

(i) Name and other identifying information;

(ii) Photograph and physical description;

(iii) Any conviction for which the individual was committed to the supervision or custody of the department or county jail;

(iv) Sentencing information regarding any conviction for which the individual was committed to the supervision or custody of the department or county jail;

(v) Projected parole eligibility, release and discharge dates;

(vi) Current location of the individual's supervision or custody; and

(vii) Date of release from the department's or county jail's supervision or custody.

(n) Unless otherwise specifically prohibited by court order, or if disclosure may be withheld under other pertinent law, the Wyoming department of corrections may, ten (10) years after the date of death of the record subject, release to the public any record created and maintained by the department relating to an individual committed to the supervision or custody of the department, except:

(i) Records regarding the victim of the crime;

(ii) Medical, psychological and dental records of the inmate;

(iii) Records relating to the security of any facility in which the inmate was housed during his incarceration; and

(iv) Records relating to out of state placement of the inmate.

7-19-107. Central repository; information to be submitted; audits; interstate exchanges.

(a) The division of criminal investigation within the office of the attorney general is designated as the central repository for criminal history record information.

(b) For the purpose of maintaining complete and accurate criminal history record information at the central repository, all city, county and state law enforcement agencies, district courts, courts of limited jurisdiction, district attorneys, the department of corrections, state juvenile correctional institutions and local probation and parole agencies shall submit the criminal history record information required under this section for which they are responsible to the division for filing at the earliest time possible following the occurrence of the reportable event. Except as provided in subsection (k) of this section, reports shall be submitted on uniform forms approved and provided by the division.

(c) All criminal justice agencies making arrests for offenses covered by this act shall furnish the division with information concerning the charges and description of all persons arrested and shall furnish their fingerprints. Each agency shall also notify the division of any decision not to refer an arrest for prosecution. An agency making arrests covered by this subsection may enter into arrangements with other agencies for the purpose of furnishing required information to the division on its behalf.

(d) All district attorneys shall notify the division of all final disposition information in cases covered by this act including charges not filed in criminal cases for which the division has a record of an arrest.

(e) Except as provided in subsection (k) of this section, all district attorneys and clerks of the district courts and courts of limited jurisdiction shall furnish the division with information concerning final dispositions in criminal cases covered by this act. The information shall include, for each charge:

(i) All judgments of not guilty, discharges and dismissals in the trial courts;

(ii) All court orders filed in the case which reverse or remand a reported conviction or vacate, modify or annul a sentence or conviction;

(iii) All judgments terminating or revoking a sentence to probation, supervision or conditional discharge and any order relating to resentencing after the termination or revocation.

(f) After the court pronounces sentence in any case covered by this act, including an order of probation, parole or suspended sentence, the sheriff shall fingerprint any convicted defendant who has not previously been fingerprinted for the same case or whose fingerprints for the same case were rejected as unreadable. The sheriff shall submit the fingerprints to the division.

(g) The director of the department of corrections, the superintendents of the Wyoming boys' school and Wyoming girls' school and the sheriff of each county shall furnish the division with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency or discharge of any individual who has been sentenced to the agency's custody for any offense covered by this act.

(h) The division shall regularly audit its own records and practices to ensure the completeness and accuracy of criminal history record information collected, maintained, used or disseminated by it, and to evaluate its procedures and facilities relating to the privacy and security of information. The division shall periodically audit the records and practices of each criminal justice agency in this state authorized to access criminal history record information maintained by the division.

(j) The division may enter into agreements with criminal records central repositories and criminal justice agencies of other states or the federal government to establish uniform procedures and practices, including codes, formats and fee schedules to facilitate the interstate exchange of criminal record information.

(k) Upon implementation of a case management system in a circuit or district court, the supreme court shall, on behalf of the district or circuit court, furnish electronically to the division an abstract of the court record within ten (10) days after entry of a judgment of conviction or forfeiture of bail. The abstract shall include:

(i) The name and address of the person charged;

(ii) A citation to the statute of each offense charged;

(iii) The finding or disposition of each offense charged;

(iv) The amount of fine, forfeiture or penalty imposed, if any, or any changes to the amount;

(v) Other information as determined and agreed upon by the office of the attorney general and the supreme court pursuant to rules promulgated by the attorney general and the supreme court.

(m) Nothing in subsection (k) of this section shall preclude a state agency from requesting and obtaining public court records as provided by court rule.

7-19-108. Fees.

(a) The division may charge the record subject or any other person or noncriminal justice agency qualified to receive criminal history record information, a reasonable application fee of not more than fifteen dollars ($15.00) for processing of fingerprints and other information submitted for a criminal history records check, except:

(i) No fee shall be charged to criminal justice agencies or the department of family services;

(ii) The application fee charged shall be not more than ten dollars ($10.00) if:

(A) The applicant is an organization engaged in providing volunteer services to youth or victims of family violence. Examples of those organizations include big brothers and big sisters and volunteer workers in safe houses for victims of family violence; and

(B) The applicant requests the background investigation be performed solely to determine the suitability of a prospective volunteer to provide volunteer services.

(iii) If national criminal history record information is requested by the submitting party pursuant to W.S. 7-19-201, the application shall include any additional fee required by the federal bureau of investigation in accordance with federal P.L. 92-544.

(b) Criminal justice agencies which fingerprint applicants at the request of noncriminal justice agencies for criminal history record information may charge a reasonable fee of not more than five dollars ($5.00) for fingerprinting. Fees collected under this subsection shall be credited to the state general fund or to the general fund of the appropriate county or municipality.

7-19-109. Inspection; deletion or modification of information.

(a) An individual has the right to inspect all criminal history record information located within this state which refers to him. The record subject may apply to the district court for an order to purge, modify or supplement inaccurate or incomplete information. Notification of each deletion, amendment or supplementary notation shall be promptly disseminated to any person or agency which received a copy of the record in question during the previous twelve (12) month period as well as the person whose record has been altered.

(b) Criminal justice agencies may prescribe reasonable hours and places for inspection of criminal history record information and may impose additional restrictions, including fingerprinting, reasonably necessary to both assure the records' security and to verify the identities of those who seek to inspect the records.

(c) When an application for inspection of criminal history record information is received by a criminal justice agency the agency shall determine whether a record pertaining to the applicant is maintained. If a record is maintained, the agency shall inform the applicant of the existence of the record and inform him of the procedure for examining the record. Upon verification of his identity, the applicant or his authorized representative shall be allowed to examine the record pertaining to him and to receive a true copy.

ARTICLE 2
STATE OR NATIONAL CRIMINAL HISTORY RECORD INFORMATION

7-19-201. State or national criminal history record information.

(a) The following persons shall be required to submit to fingerprinting in order to obtain state and national criminal history record information:

(i) Employees of substitute care providers certified by the department of family services pursuant to W.S. 14-4-101 through 14-4-116;

(ii) State institution, department of family services or department of health employees who may have access to minors, to persons suffering mental illness or developmental disabilities or to the elderly;

(iii) Applicants for initial certification by the professional teaching standards board and employees initially hired by a school district on or after July 1, 1996, who may have access to minors in the course of their employment. In accordance with W.S. 21-3-111(a) (xxi), employees of a school district who meet the qualifications of this paragraph shall also be required to submit to fingerprinting for purposes of this subsection upon request of, and payment of applicable fees by, the employing school district;

(iv) All persons applying for licensure to the Wyoming Board of Examiners for Optometry on or after July 1, 2005;

(v) Department of health or department of family services contractors providing specialized home care or respite care to minors;

(vi) Persons applying for a permit or license under W.S. 11-25-104(f) or if otherwise required under title 11, chapter 25 of the Wyoming statutes;

(vii) Prospective employees or volunteers of a public fire department, ambulance service, a county providing fire protection services pursuant to W.S. 18-3-509 or fire protection district if the department, service, county or district requires prospective employees or volunteers or both, to submit to fingerprinting in order to obtain state and national criminal history record information as a condition for a position with the department, service, county or district;

(viii) Prospective employees of or volunteers with the Wyoming military department if the department requires prospective employees or volunteers, or both, to submit to fingerprinting in order to obtain state and national criminal history record information as a condition for a position with the department;

(ix) Persons applying for a dealer or Wyoming based manufacturer license under W.S. 31-16-103 or a special sales permit under W.S. 31-16-127;

(x) Department of audit employees or applicants for employment who have access to confidential financial or accounting records;

(xi) Persons applying for a permit under W.S. 33-39-109 or a registration under W.S. 33-39-209 or 33-39-211;

(xii) State auditor employees or applicants for employment who have access to confidential financial or accounting records;

(xiii) Persons applying for a new license under W.S. 33-28-106;

(xiv) Wyoming retirement system employees or applicants for employment who have access to confidential financial information or records;

(xv) All persons applying for licensure or certification to the Wyoming board of physical therapy on or after July 1, 2009;

(xvi) Mortgage lenders, mortgage brokers, mortgage loan originators, money transmitters and persons identified in W.S. 40-23-107(b)(i), as necessary to perform the background checks required by W.S. 40-14-604(a)(vii), 40-14-634(p)(i), 40-14-642(c)(i), 40-22-108(e) and (h)(i), 40-23-103(a)(viii) and 40-23-125(c)(i);

(xvii) All persons applying for licensure or certification to the Wyoming board of medicine on or after July 1, 2009, whose application or other information received by the board indicates that the applicant has or may have been convicted of a crime, and any licensee of the board of medicine upon written request from the board of medicine as part of an ongoing investigation of or disciplinary action against the licensee;

(xviii) Employees, prospective employees and volunteers of the Wyoming department of transportation, as necessary to perform the background checks required by W.S. 31-7-103(b) and 31-7-114(f)(iv);

(xix) All persons applying for licensure to the Wyoming board of midwifery whose application or other information received by the board indicates that the applicant has or may have been convicted of a crime, and any licensee of the board of midwifery upon written request from the board of midwifery as part of an ongoing investigation of or disciplinary action against the licensee;

(xx) Persons applying for an initial license under Wyoming statutes title 26, chapter 9;

(xxi) Board members, applicants, vendors and retailers required to receive a background investigation as provided in W.S. 9-17-104(c), 9-17-110(e) and 9-17-120(b) and (c)(i). Fingerprint card submissions under this paragraph shall be forwarded through the division of criminal investigation and the division of criminal investigation shall be responsible for receiving and screening the results of any record check to determine an applicant's suitability for employment or licensing under the provisions specified in this paragraph;

(xxii) Persons conducting skills testing under W.S. 31-7-114(f)(iv);

(xxiii) Employees of the state, state agencies, institutions and political subdivisions of the state, or applicants for employment with any of those entities, whose job duties require access to federal tax information, if the head of the agency, institution or political subdivision, or their designee, determines that federal law governing access to federal tax information requires a criminal history record check of the employee or applicant. The provisions of this paragraph shall also apply to individuals who are contractors or subcontractors providing goods or services to any of the specified entities, if in the performance of the contract the individual has or will have access to federal tax information and the contracting governmental entity determines that federal law requires the criminal history record check;

(xxiv) Department of enterprise technology services employees or applicants for employment who have access to confidential information or records, if required by the state chief information officer as a condition for a position with the department of enterprise technology services;

(xxv) Health care professionals applying for licensure under title 33 of the Wyoming statutes, if required as a condition for licensure pursuant to an interstate compact entered into by the state of Wyoming;

(xxvi) If requested by the department of health, persons specified in W.S. 40-28-103(d) as part of a medical digital innovation sandbox application;

(xxvii) Persons specified in W.S. 40-29-104(d) as part of a financial technology sandbox application;

(xxviii) State treasurer's office employees, interns or applicants for employment who have access to confidential financial, accounting or investment information or records.

(xxix) Persons applying for licensure on or after July 1, 2020 as speech-language pathologists, audiologists or speech-language pathology assistants under Wyoming statutes title 33, chapter 33.

(b) Fingerprints taken pursuant to this article shall be submitted to the Wyoming division of criminal investigation for processing and obtaining state and national criminal history record information and shall be accompanied by the fee required by W.S. 7-19-108. Upon payment of required fees, the division shall process and obtain state and national criminal history record information for the Wyoming state board of nursing and the board of pharmacy or for an applicant for licensure or certification by either board.

(c) Pursuant to federal P.L. 92-544, the division may submit any applicant fingerprint cards received pursuant to this article to the federal bureau of investigation for the purpose of obtaining national criminal history record information.

(d) The department of administration and information shall promulgate rules and regulations necessary to carry out this section.

(e) The Wyoming military department, any public fire department, ambulance service or regional emergency response team may as a condition of employment or other participation with the entity require all applicants for employee or volunteer positions with the entity to submit to fingerprinting in order to obtain state and national criminal history record information. In addition, the office of homeland security may

as a condition of participation in a regional emergency response team require all team participants to submit to fingerprinting in order to obtain state and national criminal history record information.

ARTICLE 3
SEX OFFENDER REGISTRATION

7-19-301. Definitions.

(a) Unless otherwise provided, for the purposes of this act:

(i) Repealed By Laws 2007, Ch. 160, § 2.

(ii) Repealed By Laws 2007, Ch. 160, § 2.

(iii) "Convicted" includes pleas of guilty, nolo contendere, verdicts of guilty upon which a judgment of conviction may be rendered and adjudications as a delinquent for offenses specified in W.S. 7-19-302(j). "Convicted" shall not include dispositions pursuant to W.S. 7-13-301;

(iv) "Criminal offense against a minor" means the offenses specified in this paragraph in which the victim is less than eighteen (18) years of age. "Criminal offense against a minor" includes an offense committed in another jurisdiction, including a federal court or courts martial, which, if committed in this state, would constitute a "criminal offense against a minor" as defined in this paragraph. "Criminal offense against a minor" includes:

(A) Kidnapping under W.S. 6-2-201;

(B) Felonious restraint under W.S. 6-2-202;

(C) False imprisonment under W.S. 6-2-203;

(D) Offenses under W.S. 6-4-101 through 6-4-103 in which a minor is the object of the sexual act or proposed sexual act;

(E) Producing obscene material under W.S. 6-4-302 if the offense involves the use of a minor in a sexual performance;

(F) Soliciting sexual conduct under W.S. 6-2-318;

(G) Sexual exploitation of a child under W.S. 6-4-303;

(H) An attempt to commit an offense described in subparagraphs (A) through (G) of this paragraph;

(J) Human trafficking under W.S. 6-2-702 or 6-2-703 or sexual servitude under W.S. 6-2-705 or 6-2-706.

(v) "Department" means the state department of corrections;

(vi) "Division" means the Wyoming division of criminal investigation created within the office of the attorney general;

(vii) "Minor" means a person who has not attained the age of eighteen (18) years at the time of the offense;

(viii) "Offender" means a person convicted of a criminal offense specified in W.S. 7-19-302(g) through (j), 6-2-702, 6-2-703, 6-2-705 or 6-2-706. "Offender" shall also include any person convicted:

(A) As an accessory before the fact as provided in W.S. 6-1-201 for a criminal offense specified in W.S. 7-19-302(g) through (j), 6-2-702, 6-2-703, 6-2-705 or 6-2-706;

(B) Of a criminal offense in Wyoming or any other jurisdiction containing the same or similar elements, or arising out of the same or similar facts or circumstances, as a criminal offense specified in W.S. 7-19-302(g) through (j), 6-2-702, 6-2-703, 6-2-705 or 6-2-706.

(ix) "Predatory" means an act directed at a stranger or a person with whom a relationship has been established or promoted for the primary purpose of victimization;

(x) "Recidivist" means an offender convicted of an offense requiring registration under this act two (2) or more times. Offenses which would have required registration under this act, but which had a sentencing date prior to January 1, 1985, shall be counted as convictions for purposes of this paragraph;

(xi) "Reside" and words of similar import mean the physical address of each residence of an offender, including:

(A) All real property owned by the offender that is used by the offender for the purpose of shelter or other activities of daily living;

(B) Any physical address where the offender habitually visits; and

(C) Temporary residences such as hotels, motels, public or private housing, camping areas, parks, public buildings, streets, roads, highways, restaurants, libraries or other places the offender may frequent and use for shelter or other activities of daily living.

(xii) Repealed By Laws 2007, Ch. 160, § 2.

(xiii) Repealed By Laws 2007, Ch. 160, § 2.

(xiv) Repealed By Laws 2007, Ch. 160, § 2.

(xv) "This act" means W.S. 7-19-301 through 7-19-310;

(xvi) "Attending school" means enrollment on a full or part-time basis at any institution;

(xvii) "Employed" means any full or part-time employment, with or without compensation or other benefit, for a period of more than fourteen (14) days, or for an aggregate period exceeding thirty (30) days in any one (1) calendar year. Institutional contractors and contract employees performing work on an educational institution campus shall be considered institution employees;

(xviii) "Educational institution" or "institution" means any type of public or private educational facility or program, including elementary, middle and high schools, parochial, church and religious schools as defined by W.S. 21-4-101(a)(iv), trade and professional schools, colleges and universities;

(xix) "Residence" means a dwelling place with an established physical address or identifiable physical location intended for human habitation;

(xx) "Report" means providing information in person, or by any other means authorized by the sheriff if the person is required to report to the sheriff;

(xxi) "Working days" shall not include Saturdays, Sundays and legal holidays;

(xxii) "Vehicle" includes any of the following that is registered under Wyoming law:

(A) Aircraft as defined in W.S. 10-1-101(a)(i);

(B) Motor vehicle, commercial vehicle or trailer as defined in W.S. 31-1-101;

(C) Watercraft as defined in W.S. 41-13-101(a)(vii).

(xxiii) Words in the plural form include the singular and words in the singular form include the plural.

7-19-302. Registration of offenders; procedure; verification; fees.

(a) Any offender residing in this state or entering this state for the purpose of residing, attending school or being employed in this state shall register with the sheriff of the county in which he resides, attends school or is employed, or other relevant entity specified in subsection (c) of this section. The offender shall be photographed, fingerprinted and palmprinted by the registering entity or another law enforcement agency and shall provide the following additional information when registering:

(i) Name, including any aliases ever used;

(ii) Address;

(iii) Date and place of birth;

(iv) Social security number;

(v) Place and physical address of employment;

(vi) Date and place of conviction;

(vii) Crime for which convicted;

(viii) The name and physical address of each educational institution in this state at which the person is employed or attending school;

(ix) The license plate number and a description of any vehicle owned or operated by the offender;

(x) A DNA sample. As used in this paragraph, "DNA" means as defined in W.S. 7-19-401(a)(vi);

(xi) The age of each victim;

(xii) Internet identifiers, including each email address and other designations used by the offender for self-identification or routing in internet communications or postings. As used in this paragraph, "internet" means as defined in W.S. 9-2-1035(a)(iii); and

(xiii) Any phone number at which the offender may be reached or which may be used on a frequent basis by the offender to place telephone calls.

(b) In addition to the requirements of subsection (a) of this section, the department, for offenders sentenced to imprisonment, and the sheriff of the county where judgment and sentence is entered for all other offenders, shall obtain the name of the offender, identifying features, anticipated future residence, offense history and documentation of any treatment received, including prescribed psychotropic medication history, for any psychiatric condition of the offender. This information shall be transmitted to the division within three (3) working days of receipt for entry into the central registration system. A person found to be an offender by a court in another state shall provide information required under this subsection at the time of registration under this act.

(c) Offenders required to register under this act shall register with the entities specified in this subsection and within the following time periods:

(i) Offenders who, on or after July 1, 1999, are in custody of the department, local jail or a public or private agency pursuant to a court order, as a result of an offense subjecting them to registration, who are sentenced on or after January 1, 1985, shall register prior to release from custody. The agency with custody of the offender immediately prior to

release shall register the offender and perform the duties specified in W.S. 7-19-305. If the offender refuses to register or refuses to provide the required information, the agency shall so notify local law enforcement before releasing the offender;

(ii) Offenders who are convicted of an offense subjecting them to registration under this act but who are not sentenced to a term of confinement shall register immediately after the imposition of the sentence. The sheriff of the county where the judgment and sentence is entered shall register the offender and perform the related duties specified in W.S. 7-19-305 unless the offender does not reside in the county where the judgment and sentence is entered, in which case he shall register in the county in which he resides within three (3) working days;

(iii) Offenders convicted of an offense subjecting them to registration, who, except as provided by paragraph (v) of this subsection, are sentenced on or after January 1, 1985, who reside in or enter this state for the purposes of residing and who are under the jurisdiction of the department or state board of parole or other public agency as a result of that offense shall register within three (3) working days of entering this state. The Wyoming agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to this state. Within three (3) working days after the offender arrives in this state, the Wyoming agency that has jurisdiction over the offender shall notify the county sheriff of the county in which the offender resides of the offender's presence in the county;

(iv) Offenders convicted of an offense subjecting them to registration, who, except as provided by paragraph (v) of this subsection, are sentenced on or after January 1, 1985, who reside in or enter this state and who are not under the jurisdiction or custody of the department, board of parole or other public agency as a result of that offense shall register within three (3) working days of entering this state if not a current resident;

(v) Offenders convicted of an offense subjecting them to registration, whose registration requirement was added by the 2011 amendments to this act and who are sentenced after July 1, 2001 shall register as required by paragraph (iii) or (iv) of this subsection as appropriate.

(d) A nonresident who is employed or attends school in this state shall register with the county sheriff of the county in which he is employed or attends school within three (3) working days of beginning employment or starting to attend school. A resident or nonresident who is employed, resides or attends school in more than one (1) location in this state, shall register with the county sheriff of each county in which he is employed, resides or attends school within three (3) working days of beginning employment, establishing a residence in this state or starting to attend school. The registration information accepted under this subsection shall be subject to the provisions of W.S. 7-19-303.

(e) If any person required to register under this act changes his residence address within the same county, he shall provide notice of the change of address in person to the sheriff of the county in which he resides within three (3) working days of establishing the new residence. If any person required to register under this act moves to a new county in this state, he shall notify in person the county sheriff in the new county and the county sheriff of the county of his previous residence within three (3) working days of establishing the new residence. If the person changes residence to another state and that state has a registration requirement, the division shall, within three (3) working days of receipt of the information, notify the law enforcement agency with which the person must register in the new state. Any person who has not established a new residence within three (3) working days of leaving his previous residence, or becomes transient through lack of residence, shall report on a weekly basis to the sheriff in the county in which he is registered, until he establishes another residence. The information provided to a sheriff under this subsection shall be transmitted by the sheriff to the division within three (3) working days of receipt for entry into the central registry. The division shall notify the victim, or if the victim is a minor the victim's parent or guardian, within the same time period if the victim, or a minor victim's parent or guardian, has requested in writing that the division provide notification of a change of address of the offender and has provided the division a current address of the victim, parent or guardian as applicable.

(f) An offender who changes residence to another state shall register the new address with the law enforcement agency with whom he last registered and shall also register with the designated law enforcement agency in the new state not later

than three (3) working days after establishing residence in the new state.

(g) For an offender convicted of a violation of W.S. 6-2-316(a)(i) and (iv), 6-4-303(b)(iv) or W.S. 6-4-304(b) if the victim was a minor, 18 U.S.C. §§ 2252B, 2252C, 2424 and 2425, an offense in another jurisdiction containing the same or similar elements, or arising out of the same or similar facts or circumstances as a criminal offense specified in this subsection or an attempt or conspiracy to commit any of the offenses specified in this subsection, the division shall annually verify the accuracy of the offender's registered address, and the offender shall annually report, in person, his current address to the sheriff in the county in which the offender resides, during the period in which he is required to register. During the annual in-person verification, the sheriff shall photograph the offender. Confirmation of the in-person verification required under this subsection, along with the photograph of the offender, shall be transmitted by the sheriff to the division within three (3) working days. Any person under this subsection who has not established a residence or is transient, and who is reporting to the sheriff as required under subsection (e) of this section, shall be deemed in compliance with the address verification requirements of this section.

(h) For an offender convicted of a violation of W.S. 6-2-304(a)(iii) if the victim was at least fourteen (14) years of age, W.S. 6-2-314(a)(ii) and (iii), 6-2-315(a)(i) and (iii), W.S. 6-2-315(a)(iv) if the victim was thirteen (13) through fifteen (15) years of age, W.S. 6-2-317(a)(i) and (ii) or 6-2-318, W.S. 6-4-102 if the person solicited was a minor, W.S. 6-4-103 if the person enticed or compelled was a minor, W.S. 6-4-302(a)(i) if the offense involves the use of a minor in a sexual performance or W.S. 6-4-303(b)(i) through (iii), 18 U.S.C. § 2251, an offense in another jurisdiction containing the same or similar elements, or arising out of the same or similar facts or circumstances as a criminal offense specified in this subsection, an attempt or conspiracy to commit any of the offenses specified in this subsection, or any offense enumerated in subsection (g) of this section if the offender was previously convicted of any offense enumerated in subsection (g) of this section, the division shall verify the accuracy of the offender's registered address, and the offender shall report, in person, his current address to the sheriff in the county in which the offender resides, every six (6) months after the date of the initial release or commencement of parole. If the offender's appearance has changed substantially, and in any case

at least annually, the sheriff shall photograph the offender. Confirmation of the in-person verification required by this subsection, and any new photographs of the offender, shall be transmitted by the sheriff to the division within three (3) working days. Any person under this subsection who has not established a residence or is transient, and who is reporting to the sheriff as required under subsection (e) of this section, shall be deemed in compliance with the address verification requirements of this section.

(j) For an offender convicted of a violation of W.S. 6-2-201 if the victim was a minor, W.S. 6-2-302 or 6-2-303, W.S. 6-2-304(a)(iii) if the victim was under fourteen (14) years of age, W.S. 6-2-314(a)(i), W.S. 6-2-314(a)(ii) and (iii) if the victim was less than thirteen (13) years of age, W.S. 6-2-315(a)(ii), W.S. 6-2-315(a)(iii) and (iv) if the victim was less than thirteen (13) years of age, W.S. 6-2-316(a)(ii) and (iii), 6-4-402, 18 U.S.C. § 2245, or an offense in another jurisdiction containing the same or similar elements, or arising out of the same or similar facts or circumstances as a criminal offense specified in this subsection, an attempt or conspiracy to commit any of the offenses specified in this subsection, any offense enumerated in subsection (h) of this section if the offender was previously convicted of any offense enumerated in subsection (g) of this section or any offense enumerated in subsection (g) or (h) of this section if the offender was previously convicted of any offense enumerated in subsection (h) of this section, the division shall verify the accuracy of the offender's registered address, and the offender shall report, in person, his current address to the sheriff in the county in which the offender resides every three (3) months after the date of the initial release or commencement of parole. If the offender's appearance has changed substantially, and in any case at least annually, the sheriff shall photograph the offender. Confirmation of the in-person verification required by this subsection, and any new photographs of the offender, shall be transmitted by the sheriff to the division within three (3) working days. Any person under this subsection who has not established a residence or is transient, and who is reporting to the sheriff as required under subsection (e) of this section, shall be deemed in compliance with the address verification requirements of this section.

(k) Any person required to register under this act shall provide information in person to the sheriff of the county in which he is registered and to any other relevant registering entity specified in subsection (c) of this section regarding

each change in employment or enrollment status at any educational institution in this state, including any of the information collected pursuant to subsection (a) of this section within three (3) working days of the change to the entity with whom the offender last registered. This information shall be forwarded immediately from the registering entity to the division on a form prescribed by the division, and the division shall then enter the information into the central registry and forward the information to the campus police department or other law enforcement agency with jurisdiction over the educational institution.

(m) Any person required to register under this act shall provide information in person to the sheriff of the county in which he is registered and to any other relevant registering entity specified in subsection (c) of this section regarding each change of employment and shall disclose all places of employment if there is more than one (1), including any loss of employment, within three (3) working days of the change to the entity with whom the offender last registered. The information shall be forwarded within three (3) working days from the registering entity to the division and the division shall then enter the information into the central registry.

(n) Any person required to register under this act shall provide any new or updated information in person to the sheriff of the county in which he is registered and to any other relevant registering entity specified in subsection (c) of this section regarding any changes, modifications or other information necessary to keep current any of the information specified in this section and W.S. 7-19-303, within three (3) working days of the change to the entity with whom the offender last registered. The information shall be forwarded within three (3) working days from the registering entity to the division and the division shall then enter the information into the central registry.

(o) If the division lacks sufficient information or documentation to identify the offender's crime for which convicted or equivalent Wyoming offense, it shall register the offender as if he were convicted of an offense listed in subsection (j) of this section. If the division receives additional verifiable information or documentation that demonstrates that the offender was not convicted of an offense specified under subsection (j) of this section or an offense from any other jurisdiction containing the same or similar

elements or arising out of the same or similar facts or circumstances, it shall modify the offender's status.

(p) Any person convicted of any offense enumerated in subsection (g), (h) or (j) of this section who is released from confinement for any reason before being sentenced shall register as described in this section with the county sheriff for each county in which that person resides, is employed or attends school.

(q) Any offender registered pursuant to this act shall notify the county sheriff of each county in which he is registered at least twenty-one (21) days before traveling outside of the United States of America. The notification shall include the name of each country the offender plans to visit, the dates the offender intends to be in each country, the purpose for which the offender is traveling, the offender's means of travel and the offender's country of citizenship, passport number and country of issue. Each county sheriff receiving notification of an offender's intention to travel outside of the United States of America shall forward that information to the division within three (3) working days.

(r) Except as provided in subsection (s) of this section, all offenders required to register or report updated information pursuant to this act shall pay fees established by rules of the division. The division shall establish fees in accordance with the following:

(i) At the time of initial registration, the offender shall pay a state registration fee in an amount not to exceed one hundred twenty dollars ($120.00) and a county registration fee in an amount equal to twenty-five percent (25%) of the state registration fee;

(ii) Each time the offender is required to report updated information pursuant to subsection (e), (f), (k) or (m) of this section, the offender shall pay a state reporting fee in an amount not to exceed twenty-five dollars ($25.00) and a county reporting fee in an amount equal to twenty-five percent (25%) of the state reporting fee;

(iii) The state registration and reporting fees established by the division shall, to the extent practicable, generate a total revenue that approximates, but does not exceed, the direct and indirect costs of administering and enforcing the provisions of this act.

(s) No fee required under subsection (r) of this section shall be charged to:

(i) An offender in custody of the department, a local jail or a public or private agency pursuant to a court order during the period in which the offender is in custody;

(ii) An indigent offender, as provided in rules established by the division. The rules shall establish criteria and procedures for determinations of indigency in accordance with the following:

(A) Standards for indigency shall be similar to the standards used to determine indigency for the purposes of the appointment of counsel;

(B) An offender shall apply for a determination of indigency at the time of registration or reporting updated information by submitting to the division or the sheriff of the county in which the offender is required to register or report, under penalty of perjury, an application and supporting documentation regarding the offender's income, property owned, outstanding obligations, number and ages of the offender's dependents and any other factors relevant to the offender's ability to pay registration and reporting fees. The application and information shall detail the offender's financial status for a period of not less than one (1) year preceding the date of the application;

(C) If an offender is unable to submit a complete application at the time of registration or reporting updated information, the offender may submit an application to the division or the sheriff of the county in which the offender is required to register or report updated information within thirty (30) days of registration or reporting. Failure to submit an application and all required information within thirty (30) days of registration or reporting updated information shall be deemed to be a waiver of the offender's ability to request a determination of indigency and the fees required under subsection (r) of this section shall be payable;

(D) The division shall approve or deny an application for a determination of indigency and provide notice of the determination to the offender within thirty (30) days of receipt of the application;

(E) The division's determination that the offender is indigent shall be valid for a period of one (1) calendar year from the registration or reporting updated information date for which the application was submitted. Upon the expiration of the period, the offender may submit an application for a new determination of indigency;

(F) If the division determines the offender is not indigent, the offender shall pay the fees required under subsection (r) of this section within thirty (30) days from the date the offender receives notice of the denial. An offender may apply for a determination of indigency only once per calendar year, unless the offender can show a material change in circumstances;

(G) The division's determination that an offender is not indigent is an agency action subject to judicial review as provided under W.S. 16-3-114 and 16-3-115.

(t) The sheriff of the county in which the offender is required to register or report updated information shall:

(i) Collect the fees required under subsection (r) of this section;

(ii) Retain the county registration and reporting fees collected to be expended for purposes of administering and enforcing the provisions of this act and to cover the administrative expenses and costs of collecting and remitting the state registration and reporting fees;

(iii) Remit to the division the state registration and reporting fees to be deposited in the sex offender registration account created by W.S. 7-19-310; and

(iv) Forward to the division any applications for a determination of indigency.

(u) If an offender fails to pay the fees required under subsection (r) of this section, the sheriff of the county in which the offender is required to register or report updated information shall provide to the division the registration or reporting information required under this act and notify the division of the offender's failure to pay. Unpaid fees become delinquent thirty (30) days after the date the fee is imposed, the date the offender waives the ability to request a determination of indigency by failing to submit an application

or the date the division notifies the offender he does not qualify as indigent, whichever is later. Unpaid fees may be collected by the division as otherwise provided by law and as provided in W.S. 9-1-415(a). Nothing in this subsection shall be construed to prohibit the prosecution of an offender for failure to register or report updated information or for any other offense.

7-19-303. Offenders central registry; dissemination of information.

(a) An entity registering an offender shall forward the information and fingerprints obtained pursuant to W.S. 7-19-302 to the division within three (3) working days. The division shall maintain a central registry of offenders required to register under W.S. 7-19-302 and shall adopt rules necessary to carry out the purposes of W.S. 7-19-302. The division shall immediately enter information received pursuant to this act into the central registry and shall immediately transmit the conviction data, palmprints and fingerprints to the federal bureau of investigation and national sex offender registry.

(b) The information collected under this act shall be confidential, except for that information collected in accordance with paragraph (c)(iii) of this section which information shall be a matter of public record.

(i) Repealed By Laws 2007, Ch. 160, § 2.

(ii) Repealed By Laws 2007, Ch. 160, § 2.

(c) The division shall provide notification of registration under this act, including all registration information, to the district attorney of the county where the registered offender is residing at the time of registration or to which the offender moves. In addition, the following shall apply:

(i) Repealed By Laws 2007, Ch. 160, § 2.

(ii) If the offender was convicted of an offense specified in W.S. 7-19-302(h) or (j), notification shall be provided by mail, personally or by any other means reasonably calculated to ensure delivery of the notice to residential neighbors within at least seven hundred fifty (750) feet of the offender's residence, organizations in the community, including schools, religious and youth organizations by the sheriff or his

designee. In addition, notification regarding an offender employed by or attending school at any educational institution shall be provided upon request by the educational institution to a member of the institution's campus community as defined by subsection (h) of this section;

(iii) Notification of registration under this act shall be provided to the public through a public registry, as well as to the persons and entities required by paragraph (ii) of this subsection. The division shall make the public registry available to the public, with the exception of internet identifiers, telephone numbers and adjudications as delinquent unless disclosure is authorized pursuant to W.S. 7-19-309, through electronic internet technology and shall include:

(A) The offender's name, including any aliases;

(B) Physical address;

(C) Date and place of birth;

(D) Date and place of conviction;

(E) Crime for which convicted;

(F) Photograph;

(G) Physical characteristics including race, sex, height, weight, eye and hair color;

(H) History of all criminal convictions subjecting an offender to the registration requirements of this act;

(J) The license plate or registration number and a description of any vehicle owned or operated by the offender; and

(K) The physical address of any employer that employs the offender; and

(M) The physical address of each educational institution in this state at which the person is attending school.

(iv) The division shall adopt rules necessary to provide for the maintenance and dissemination of the information contained in the central registry of offenders.

(d) Repealed By Laws 2007, Ch. 160, § 2.

(e) Repealed By Laws 2007, Ch. 160, § 2.

(f) The identity of the victim of an offense that requires registration under this act shall not be released to the public unless the victim has authorized the release of the information, provided:

(i) Nothing in this subsection shall bar the disclosure of information concerning the characteristics of the victim and the nature and circumstances of the offense so long as the victim is not identified;

(ii) Nothing in this subsection shall bar the disclosure of victim identity information contained as part of the criminal history record information disclosed to persons authorized to receive such information under W.S. 7-19-106; and

(iii) This subsection does not apply to victim identity information contained in public records which exist independently of this act.

(g) Any person who, by virtue of employment or official position has possession of, or access to, registration information furnished pursuant to this act or victim identifying information, and willfully discloses it in any manner to any person or agency not entitled to receive the information is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

(h) An educational institution in this state shall instruct members of its campus community, by direct advisement, publication or other means, that a member can obtain information regarding offenders employed by or attending school at the institution by contacting the campus police department or other law enforcement agency with jurisdiction over the institution. For the purposes of this subsection, "member of the campus community" means a person employed by or attending school at the educational institution at which the offender is employed or attending school, or a person's parent or guardian if the person is a minor.

(j) The attorney general shall maintain a public record of the number of registered offenders in each county.

(k) The legislature directs the division to facilitate access to the information on the public registry available through electronic internet technology without the need to consider or assess the specific risk of reoffense with respect to any individual prior to his inclusion within the registry, and the division shall place a disclaimer on the division's internet website indicating that:

(i) No determination has been made that any individual included in the registry is currently dangerous;

(ii) Individuals included within the registry are included solely by virtue of their conviction record and state law; and

(iii) The main purpose of providing the information on the internet is to make the information more easily available and accessible, not to warn about any specific individual.

7-19-304. Termination of duty to register.

(a) The duty to register under W.S. 7-19-302 shall begin on the date of sentencing and continue for the duration of the offender's life, subject to the following:

(i) An offender specified in W.S. 7-19-302(g) or adjudicated as a delinquent for offenses specified in W.S. 7-19-302(j), who has been registered for at least ten (10) years, exclusive of periods of confinement and periods in which the offender was not registered as required by law, may petition the district court for the district in which the offender is registered to be relieved of the duty to continue to register if the offender has maintained a clean record as provided in subsection (d) of this section. Upon a showing that the offender has maintained a clean record as provided in subsection (d) of this section for ten (10) years, the district court may order the offender relieved of the duty to continue registration;

(ii) An offender specified in W.S. 7-19-302(h) who has been registered for at least twenty-five (25) years, exclusive of periods of confinement and periods in which the offender was not registered as required by law, may petition the

district court for the district in which the offender is registered to be relieved of the duty to continue to register if the offender has maintained a clean record as provided in subsection (d) of this section. Upon a showing that the offender has maintained a clean record as provided in subsection (d) of this section for twenty-five (25) years, the district court may order the offender relieved of the duty to continue registration; and

(A) Repealed By Laws 1999, ch. 203, § 3.

(B) Repealed By Laws 1999, ch. 203, § 3.

(iii) A petition filed under this subsection shall be served on the prosecuting attorney for the county in which the petition is filed. The court shall not grant a petition that was not served on the prosecuting attorney. The prosecuting attorney may file a responsive pleading within thirty (30) days after service of the petition.

(b) Repealed By Laws 1999, ch. 203, § 3.

(c) Nothing in W.S. 7-13-302 shall be construed as operating to relieve the offender of his duty to register pursuant to W.S. 7-19-302.

(d) An offender seeking a reduction in his registration period as provided in paragraph (a)(i) or (ii) of this section shall demonstrate to the court that he has maintained a clean record by:

(i) Having no conviction of any offense for which imprisonment for more than one (1) year may be imposed;

(ii) Having no conviction of any sex offense;

(iii) Successfully completing any periods of supervised release, probation and parole; and

(iv) Successfully completing any sex offender treatment previously ordered by the trial court or by his probation or parole agent.

7-19-305. Registration; duties of registering entities; notice to persons required to register.

(a) The entity required to register an offender under W.S. 7-19-302(c) shall provide written notification to the offender of the requirements of this act and shall receive and retain a signed acknowledgment of receipt. The entity shall forward all registration information to the division within three (3) working days after registering the offender. When registering an offender the registering entity shall:

(i) Obtain the information required for the registration by W.S. 7-19-302;

(ii) Inform the offender that if he changes residence address he shall give the new address to the sheriff in person within three (3) working days, or if he becomes transient through lack of residence, he shall report on a weekly basis to the sheriff in the county in which he is registered until he establishes another residence;

(iii) Inform the offender that if he changes residence to another state, he shall register the new address with the law enforcement agency with whom he last registered and shall also register with the designated law enforcement agency in the new state not later than three (3) working days after establishing residence in the new state;

(iv) Obtain, or arrange for another law enforcement agency to provide, fingerprints, DNA sample and a photograph of the offender if these have not already been obtained in connection with the offense that triggers the registration requirement;

(v) Inform the offender that if he is employed or attends school in another state while continuing residence in this state he must register with the other state as a nonresident worker or nonresident student;

(vi) Inform the offender that in addition to any other registration requirements of this act, if the offender becomes employed by or attends school at any educational institution in this state, or if his status of employment or enrollment at any educational institution in this state as reported during his last registration changes in any manner, he shall register the change within three (3) working days of the change with the entity with whom he last registered.

(b) The department or other agency assuming jurisdiction shall provide written notification to an offender convicted in

another state of the registration requirements of W.S. 7-19-302 at the time the department or agency accepts supervision and has legal authority of the individual under the terms and conditions of the interstate compact agreement under W.S. 7-3-401.

7-19-306. Repealed By Laws 1999, ch. 203, § 3.

7-19-307. Penalties.

(a) Failure to register, update any registration information or pay any fee required under subsection (r) of this section within the time required under W.S. 7-19-302 constitutes a per se violation of this act and is punishable as provided in this section. The division shall notify the appropriate authorities when it discovers that an offender fails to register, update any registration information or pay any fee required under subsection (r) of this section within the time required under W.S. 7-19-302 or when an offender absconds.

(b) An arrest on charges of failure to register, service of an information or complaint for a violation of this act, or arraignment on charges for a violation of this act, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this act who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service or arraignment. Failure to register as required under this subsection constitutes grounds for filing another charge of failing to register. Registering following arrest, service or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(c) A person who knowingly fails to register as required by W.S. 7-19-302 is guilty of a felony punishable by a fine of up to one thousand dollars ($1,000.00), imprisonment for not more than five (5) years, or both.

(d) A person convicted of a subsequent violation of knowingly failing to register as required by W.S. 7-19-302 is guilty of a felony punishable by a fine of one thousand dollars ($1,000.00), imprisonment for not more than ten (10) years, or both.

(e) A person who willfully fails to pay fees required under W.S. 7-19-302 is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars ($750.00),

imprisonment in the county jail for not more than six (6) months, or both.

7-19-308. Harboring a sex offender; penalties; exceptions.

(a) A person is guilty of the crime of harboring, assisting, concealing, or withholding information about, a sex offender, if the person has knowledge that a sex offender is required to register under W.S. 7-19-302 and the person:

(i) Assists the sex offender in eluding a law enforcement agency that is seeking to question the sex offender about, or to arrest the sex offender for, his noncompliance with the requirements of W.S. 7-19-302 or any other law prohibiting a sexual offense, child abuse or kidnapping;

(ii) Withholds information, including but not limited to the location of the sex offender, from, or fails to notify, the law enforcement agency about the sex offender's noncompliance with the requirements of W.S. 7-19-302 or any other law prohibiting a sexual offense, child abuse or kidnapping and commits an affirmative act in furtherance of paragraph (a)(i), (iii) or (iv) of this section;

(iii) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sex offender;

(iv) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sex offender; or

(v) Provides information to the law enforcement agency regarding the sex offender which the person knows to be false.

(b) Subsection (a) of this section shall not apply if the sex offender is incarcerated in a local, state or federal detention or correctional facility, or is in the custody of a law enforcement agency.

(c) A violation of subsection (a) of this section shall be a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

7-19-309. Juvenile sex offenders; risk assessment; factors; reporting requirements.

(a) A minor offender convicted or adjudicated as a delinquent as specified in W.S. 7-19-301(a)(iii), shall be subject to this section.

(b) The division shall provide notification of registration under this section, including all registration information, to the district attorney of the county where the registered offender is residing at the time of registration or to which the offender moves. Upon receipt of notification, the district attorney shall file an application for hearing under this subsection if, based upon a review of the risk of reoffense factors specified in subsection (c) of this section, the review indicates that public safety requires that notification be provided to persons in addition to those authorized to receive criminal history record information under W.S. 7-19-106. Upon application of the district attorney and following notice to the offender and an in-camera hearing, the district or juvenile court shall, based upon its finding as to the risk of reoffense by the offender, authorize the division, county sheriff, police chief or their designee to release information regarding the offender as follows:

(i) If the risk of reoffense is low, notification shall be in accordance with the requirements of W.S. 7-19-106 to persons authorized to receive criminal history record information under W.S. 7-19-106;

(ii) If the risk of reoffense is moderate or high, notification shall be provided to residential neighbors within seven hundred fifty (750) feet of the offender's residence, organizations in the community including schools, religious and youth organizations and to the persons authorized under paragraph (i) of this subsection, through means specified in the court's order.

(c) In determining an offender's risk of reoffense under subsection (b) of this section, the court shall consider:

(i) Conditions of release that minimize risk of reoffense, including whether the offender is under supervision through a program provided in title 14 or a juvenile service program, on probation or parole, receiving counseling, therapy or treatment or residing in a home situation that provides guidance and supervision;

(ii) Physical conditions that minimize the risk of reoffense;

(iii) Criminal history factors indicative of high risk of reoffense, including:

(A) Whether the offender's conduct was found to be characterized by repetitive and compulsive behavior;

(B) The age of the victim of the sexual offense;

(C) Whether psychological or psychiatric profiles indicate a risk of recidivism;

(D) The offender's response to treatment;

(E) Recent behavior, including behavior while confined or while under supervision in the community as well as behavior in the community following service of sentence;

(F) Recent threats against any person or expressions of intent to commit additional crimes;

(G) Other criminal history factors, including:

(I) The relationship between the offender and the victim;

(II) The number, date and nature of any prior offenses or acts resulting in an adjudication of delinquency; and

(H) Any other factors the court deems necessary and relevant.

(d) To the extent any other provision of law conflicts with the disclosure requirements of this section, the provisions of this section shall govern.

7-19-310. Sex offender registration account; purposes.

There is created the sex offender registration account to be administered by the division. Any state registration or reporting fees collected pursuant to W.S. 7-19-302 shall be deposited into the account. Funds in the account shall be expended only upon appropriation by the legislature and shall

not be transferred or expended for any purpose other than administering and enforcing the provisions of this act. Interest accruing to the account shall be retained in the account and shall be expended for the purposes provided in this section.

ARTICLE 4
DNA IDENTIFICATION RECORD SYSTEM

7-19-401. Definitions.

(a) For purposes of this act:

(i) "CODIS" means the FBI's national DNA identification index system;

(ii) "Convicted" includes pleas of guilty, nolo contendere and verdicts of guilty upon which a judgment of conviction may be rendered. "Convicted" shall not include dispositions pursuant to W.S. 7-13-301 or 35-7-1037;

(iii) "Criminal justice agency" means any agency or institution of state or local government, other than the office of the public defender, which performs as part of its principal function, activities relating to:

(A) The apprehension, investigation, prosecution, adjudication, incarceration, supervision or rehabilitation of criminal offenders; or

(B) The collection, maintenance, storage, dissemination or use of criminal history record information.

(iv) "Department" means the Wyoming department of corrections;

(v) "Division" means the division of criminal investigation within the office of the Wyoming attorney general;

(vi) "DNA" means deoxyribonucleic acid located in the cells;

(vii) "DNA record" means DNA identification information stored in the state DNA database or CODIS for the purposes of generating investigative leads or supporting statistical interpretation of DNA test results. The objective form of DNA analysis test including numerical representation of

DNA fragment lengths, the digital image of autoradiographs and discrete allele assignment numbers of a DNA sample, together with the identity of the submitting agency shall be stored as a DNA record in the state DNA database;

(viii) "DNA sample" means a human tissue sample containing DNA which may include, but is not limited to, blood, hair and buccal cells;

(ix) "FBI" means the federal bureau of investigation;

(x) "In custody" means imprisoned in the Wyoming state penitentiary, state penitentiary farms and camps or Wyoming women's center, committed to the Wyoming boys' school pursuant to W.S. 7-13-101, or on probation or parole;

(xi) "State DNA database" means the DNA identification record system established under this act;

(xii) "Sexual assault biological evidence" includes DNA samples and evidence gathered during an examination conducted under W.S. 6-2-309;

(xiii) "This act" means W.S. 7-19-401 through 7-19-407.

7-19-402. DNA database created; uses of information restricted.

(a) The division shall establish a state DNA database for convicted felons, crime scene specimens and close biological relatives of missing persons in accordance with the provisions of this act. The state DNA database shall be used to assist federal, state and local criminal justice agencies in the putative identification, detection or exclusion of individuals who are subjects of a prosecution of a crime involving biological evidence from the crime scene. The database may also be used:

(i) To support development of a population statistics database, when personal identifying information is removed;

(ii) To support identification research and protocol development of forensic DNA analysis methods;

(iii) For quality control purposes; and

(iv) To assist in the recovery or identification of human remains from mass disasters or for other humanitarian purposes, including identification of living missing persons.

(b) DNA samples collected and stored for the state DNA database shall not be used or disseminated for purposes other than those specified in this act.

(c) The state DNA database, including test procedures, laboratory equipment, supplies and computer software shall be compatible with that utilized by the FBI. Local criminal justice agencies that establish or operate a DNA identification record system shall ensure that such system is compatible with the state DNA database and that the local system is equipped to receive and answer inquiries from the state DNA database and transmit DNA records to the state DNA database. Procedures and rules for the collection, analysis, storage, expungement and use of DNA identification data shall be uniform throughout the state DNA database.

7-19-403. DNA samples required; collection; testing; reimbursement of costs.

(a) Every person convicted of a felony on or after July 1, 1997, and every person who on or after July 1, 1997, is in custody in this state as a result of a felony conviction shall provide a DNA sample for analysis to determine identification characteristics specific to the person. The DNA record resulting from the DNA analysis shall be stored and maintained by the division in the state DNA database.

(b) DNA samples shall be collected in a medically approved manner by a physician, registered nurse, qualified clinical or laboratory technician or other person qualified by training and experience. Persons authorized to draw or collect DNA samples under this section shall not be civilly liable for such acts when acting in a reasonable manner according to generally accepted medical practices. DNA samples required under this section for persons in custody on or after July 1, 1997, shall be provided prior to release from custody. DNA samples required under this section for persons convicted on or after July 1, 1997, and not sentenced to imprisonment shall be provided as a condition of the sentence immediately after sentencing. The division shall promulgate rules and regulations governing the policies and procedures for the collection of DNA samples and transfer of DNA samples to the division. Criminal justice agencies having custody of a person required to provide a DNA

sample under this section shall comply with rules and regulations of the division relating to the collection of DNA samples and transfer of such DNA samples for analysis.

(c) DNA samples collected under this section shall be transmitted to the division for the state DNA database. The division shall perform tests on the DNA samples as necessary to implement the purposes of the state DNA database as specified in W.S. 7-19-402(a). The division may contract for services to perform DNA typing under this subsection. The division shall ensure that:

(i) Any contractor conducts forensic DNA analysis in accordance with national standards for DNA quality assurance and proficiency testing issued pursuant to the Federal DNA Identification Act of 1994; and

(ii) Typing results meet acceptance criteria established by the FBI for inclusion of DNA records in CODIS.

(d) The division shall reimburse any Wyoming city, town, county or agency required to collect DNA samples under this act for the cost of collecting the sample. The procedure for reimbursement shall be in accordance with rules adopted by the division.

7-19-404. Access to database; information authorized to be stored.

(a) The division shall authorize access to or disclose DNA records and DNA samples collected in the state DNA database only in the following circumstances:

(i) To criminal justice agencies for law enforcement identification purposes;

(ii) For criminal defense purposes, to a defendant who shall have access to samples and analyses performed in connection with the case in which such defendant is charged;

(iii) For a population statistics database, identification research and protocol development or quality control purpose, and then only if personal identifying information is removed; and

(iv) To assist in the recovery or identification of human remains from mass disasters or for other humanitarian purposes, including identification of living missing persons.

(b) Access to the state DNA database shall be limited to duly constituted federal, state and local criminal justice agencies through their servicing forensic DNA laboratories. The division shall allow access to defendants for criminal defense purposes as defined in paragraph (a)(ii) of this section upon court order. The division shall adopt rules and procedures to ensure the state DNA database is protected against unauthorized access to the system or files containing DNA related information.

(c) Only DNA records which directly relate to the identification characteristics of individuals shall be collected and stored in the state DNA database. The information contained in the state DNA database shall not be collected or stored for the purpose of obtaining information about physical characteristics, traits or predisposition for disease and shall not serve any purpose other than those stated in W.S. 7-19-402(a). The submitting agency may maintain control of the DNA records it develops.

(d) Any person who, by virtue of employment or official position, has possession of or access to, a DNA record and willfully discloses it in any manner to any person or agency not entitled to receive the record is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both. Any person who, without authorization, willfully obtains or attempts to obtain any DNA record, or tampers with or attempts to tamper with any DNA sample, is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

7-19-405. Expungement of information.

(a) Any person whose DNA profile has been included in the state DNA database pursuant to this act may request expungement on the grounds the felony conviction on which the authority for including the DNA profile was based has been reversed and dismissed. The division shall expunge all identifiable information and DNA records in the state DNA database relating to the subject conviction from the person upon receipt of:

(i) A written request for expungement pursuant to this section; and

(ii) A certified copy of the court order reversing and dismissing the conviction or providing for expungement.

7-19-406. Enforcement.

Duly authorized law enforcement and corrections personnel may employ reasonable force in cases where a person refuses to submit to DNA testing as required under this act, and no such employee shall be criminally or civilly liable for the use of such reasonable force. If a person required to provide a DNA sample under this act refuses to do so, the criminal justice agency having custody of the person may apply to the district court for an order requiring the person to provide the sample in conformity with the provisions of this act. Refusal to provide the sample shall be punishable as contempt of the court.

7-19-407. Sexual assault biological evidence reports.

(a) Beginning January 1, 2020, each criminal justice agency shall report to the division all investigations in which sexual assault biological evidence is gathered. The report shall include the type of crime involved, whether the evidence was submitted to a laboratory for analysis, the name of the lab, whether lab analysis has been completed, and if not submitted, the reasons for nonsubmission and any other information required by the division. Reports shall not include the names of any of the persons involved in an incident or any information which would serve to identify any individual person.

(b) At least annually, the division shall compile a statistical report that shall include the information received pursuant to subsection (a) of this section. Copies of the statistical report shall be published in the "Uniform Crime Reporting, Crime in Wyoming" publication and shall be made available to the public upon request.

ARTICLE 5
JUVENILE JUSTICE INFORMATION SYSTEM

7-19-501. Definitions.

(a) As used in this act:

(i) "Adjudicated" or "adjudication" means as defined by W.S. 14-6-201(a)(i);

(ii) "Adult" means an individual who has attained the age of majority;

(iii) "Delinquent child" means as defined by W.S. 14-6-201(a)(x);

(iv) "Disposition" means the action ordered by the juvenile court judge under W.S. 14-6-229 upon adjudication of a juvenile for a delinquent act;

(v) "Division" means the Wyoming division of criminal investigation within the office of the attorney general;

(vi) "Juvenile" means an individual who is under the age of majority;

(vii) "Qualifying offense" means conduct that, if committed by an adult, would constitute a felony under the provisions of W.S. 6-1-104(a)(xii) or 35-7-1031 or under similar federal law;

(viii) "This act" means W.S. 7-19-501 through 7-19-505.

7-19-502. Record system created.

(a) The division shall create and maintain a database for a juvenile justice information system as provided in this act.

(b) The database shall contain the information required by this act. Access to information in the database shall be limited as provided by W.S. 7-19-504.

(c) The division shall promulgate reasonable rules and regulations necessary to carry out the provisions of this act. The division shall annually report by March 1 to the joint judiciary interim committee on the numbers of entries and usage of the database.

7-19-503. Collection of juvenile justice information.

(a) In any case in which a juvenile is adjudicated a delinquent child for the commission of a qualifying offense, the

court shall direct that, to the extent possible, the following information be collected and provided to the division:

(i) Offender identification information including:

(A) The juvenile offender's name, including other names by which the juvenile is known, and social security number;

(B) The juvenile offender's date and place of birth;

(C) The juvenile offender's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks and tattoos;

(D) The juvenile offender's last known residential address; and

(E) The juvenile offender's fingerprints.

(ii) Offense identification information including:

(A) The criminal offense for which the juvenile was adjudicated delinquent;

(B) Identification of the juvenile court in which the juvenile was adjudicated delinquent; and

(C) The date and description of the final disposition ordered by the juvenile court.

(b) The information maintained by the division shall not include predisposition studies and reports, social summaries, medical or psychological reports, educational records, multidisciplinary team minutes and records or transcripts of dispositional hearings.

(c) The division may designate codes relating to the information described in subsection (a) of this section.

7-19-504. Access to and dissemination of information.

(a) Information contained in the juvenile justice information system shall be accessible, whether directly or through an intermediary, to:

(i) Other criminal justice agencies;

(ii) Any person designated for the purpose provided by W.S. 14-6-227;

(iii) The department of family services if the subject is in the custody of the department;

(iv) An individual who has met the requirements established by the division to ensure the record will be used solely as a statistical research or reporting record and that the record is to be transferred in a form that is not individually identifiable;

(v) Any record subject as provided by W.S. 7-19-109.

(b) When a subject reaches the age of majority, all information in the juvenile justice information system pertaining to that subject shall be deleted.

(c) Any person who willfully violates subsection (a) or (b) of this section is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00). Any person or entity who violates subsection (a) of this section shall be denied further access to the system.

7-19-505. Inspection of information.

An individual, his parents and guardian have the right to inspect all juvenile justice record information located within this state which refers to that individual in accordance with W.S. 7-19-109.

ARTICLE 6
NATIONAL CRIME PREVENTION AND PRIVACY COMPACT ACT

7-19-601. Short title.

This act may be cited as "The National Crime Prevention and Privacy Compact Act".

7-19-602. Compact provisions generally.

The National Crime Prevention and Privacy Compact is enacted into law and entered into by this state with any other state or jurisdiction legally joining the compact in the form substantially as follows:

Article I

Definitions

(a) As used in this compact, unless the context clearly requires otherwise:

(i) "Attorney general" means the attorney general of the United States;

(ii) "Compact officer" means:

(A) With respect to the federal government, an official so designated by the director of the FBI; and

(B) With respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(iii) "Council" means the compact council established under article VI of this compact;

(iv) "Criminal history records" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments or other formal criminal charges, and any dispositions arising therefrom, including acquittal, sentencing, correctional supervision or release, but does not include identification information such as fingerprint records if that information does not indicate involvement of the individual with the criminal justice system;

(v) "Criminal history record repository" means the state agency designated by the governor or other appropriate executive official or the legislature of a state to perform centralized recordkeeping functions for criminal history records and services in the state;

(vi) "Criminal justice" means the activities relating to the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage and dissemination of criminal history records;

(vii) "Criminal justice agency" means:

(A) Courts;

(B) A governmental agency or any subunit thereof that:

(I) Performs the administration of criminal justice pursuant to a statute or executive order; and

(II) Allocates a substantial part of its annual budget to the administration of criminal justice; and

(C) Includes federal and state inspectors general offices.

(viii) "Criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes;

(ix) "Criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI;

(x) "Direct access" means access to the national identification index by computer terminal or other automated means not requiring the assistance of, or intervention by, any other party or agency;

(xi) "Executive order" means an order of the president of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law;

(xii) "FBI" means the federal bureau of investigation;

(xiii) "Interstate identification system" or "III system" means the cooperative federal-state system for the exchange of criminal history records and includes the national identification index, the national fingerprint file and, to the extent of their participation in the system, the criminal history record repositories of the states and the FBI;

(xiv) "National fingerprint file" means a database of fingerprints or other uniquely personal identifying information relating to an arrested or charged individual maintained by the FBI to provide positive identification or record subjects indexed in the III system;

(xv) "National identification index" means an index maintained by the FBI consisting of names, identifying numbers and other descriptive information relating to record subjects about whom there are criminal history records in the III system;

(xvi) "National indices" means the national identification index and the national fingerprint file;

(xvii) "Nonparty state" means a state that has not ratified this compact;

(xviii) "Noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than for purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters and national security clearances;

(xix) "Party state" means a state that has ratified this compact;

(xx) "Positive identification" means a determination, based on a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III system. Identification based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification;

(xxi) "Sealed record information" means:

(A) With respect to adults, that portion of a record that is:

(I) Not available for criminal justice uses;

(II) Not supported by fingerprints or other accepted means of positive identification; or

(III) Subject to restrictions on dissemination for noncriminal justice purposes pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and

(B) With respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

(xxii) "State" means any state, territory or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

Article II

Purposes

(a) The purposes of this compact are to:

(i) Provide a legal framework for the establishment of a cooperative federal-state exchange of criminal history records for noncriminal justice purposes;

(ii) Require the FBI to permit use of the national identification index and the national fingerprint file by each party state and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures and standards established by the council under article VI(a) of this compact;

(iii) Require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this compact and with rules, procedures and standards established by the council under article VI(a) of this compact;

(iv) Provide for the establishment of a council to monitor III system operations and to prescribe system rules and procedures for the effective and proper operation of the III system for noncriminal justice purposes; and

(v) Require the FBI and each party state to adhere to III system standards concerning record dissemination and use, response times, system security, data quality and other duly established standards, including those that enhance the accuracy and privacy of such records.

Article III

Responsibilities of Compact Parties

(a) The director of the FBI shall:

(i) Appoint an FBI compact officer who shall:

(A) Administer this compact within the federal department of justice and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to article (V)(c) of this compact;

(B) Ensure that compact provisions and rules, procedures and standards prescribed by the council under article VI of this compact are complied with by the federal department of justice and the federal agencies and other agencies and organizations referred to in subparagraph (A) of this paragraph; and

(C) Regulate the use of records received by means of the III system from party states when the records are supplied by the FBI directly to other federal agencies.

(ii) Provide to federal agencies and to state criminal history record repositories, criminal history records maintained in its databases for the noncriminal justice purposes described in article IV of this compact, including:

(A) Information from nonparty states; and

(B) Information from party states that is available from the FBI through the III system, but is not available from the party state through the III system.

(iii) Provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in article IV of this compact, and ensure that the exchange of the records for

criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(iv) Modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in article V of this compact.

(b) Each party state shall:

(i) Appoint a compact officer who shall:

(A) Administer this compact within the state;

(B) Ensure that compact provisions and rules, procedures and standards established by the council under article VI(a) of this compact are complied with in the state; and

(C) Regulate the in-state use of records received by means of the III system from the FBI or from other party states.

(ii) Establish and maintain a criminal history record repository, which shall provide:

(A) Information and records for the national identification index and the national fingerprint file; and

(B) The state's III system-indexed criminal history records for noncriminal justice purposes described in article IV of this compact.

(iii) Participate in the national fingerprint file; and

(iv) Provide and maintain telecommunications links and related equipment necessary to support the services set forth in this compact.

(c) In carrying out their responsibilities under this compact, the FBI and each party state shall comply with III system rules, procedures and standards duly established by the council concerning record dissemination and use, response time, data quality, system security, accuracy, privacy protection and other aspects of III system operation.

(d) Maintenance of record services shall comply with the following:

(i) Use of the III system for noncriminal justice purposes authorized in this compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes;

(ii) Administration of compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.

Article IV

Authorized Record Disclosures

(a) To the extent authorized by section 552a of title 5, United States Code (commonly known as the Privacy Act of 1974), the FBI shall provide on request criminal history records (excluding sealed records) to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general and that authorizes national indices checks.

(b) The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the Privacy Act of 1974), and state criminal history record repositories, shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general, that authorizes national indices checks.

(c) Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures, consistent with this compact and with rules, procedures and standards established by the council under article VI of this compact, which procedures shall protect the accuracy and privacy of the records and shall:

(i) Ensure that records obtained under this compact are used only by authorized officials for authorized purposes;

(ii) Require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(iii) Ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

Article V

Record Request Procedures

(a) Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Each request for a criminal history record check utilizing the national indices made under any approved state statute shall be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if the request is transmitted through another state criminal history record repository or the FBI.

(c) Each request for criminal history record checks utilizing the national indices made under federal authority shall be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which the request originated. Direct access to the national identification index by entities other than the FBI and state criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) A state criminal record repository or the FBI:

(i) May charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(ii) May not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) If an additional search is required, the following shall apply:

(i) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices;

(ii) If, with respect to a request forwarded by a state criminal history record repository under paragraph (i) of this subsection, the FBI positively identifies the subject as having a III system indexed record or records:

(A) The FBI shall so advise the state criminal history record repository; and

(B) The state criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

Article VI

Establishment of Compact Council

(a) There is established a council to be known as the compact council, which shall have the authority to promulgate rules and procedures governing the use of the III system for noncriminal justice purposes, not to conflict with FBI administration of the III system for criminal justice purposes.

(b) The council shall:

(i) Continue in existence as long as this compact remains in effect;

(ii) Be located, for administrative purposes, within the FBI; and

(iii) Be organized and hold its first meeting as soon as practicable after the effective date of this compact.

(c) The council shall be composed of fifteen (15) members, each of whom shall be appointed by the attorney general, as follows:

(i) Nine (9) members, each of whom shall serve a two (2) year term, who shall be selected from among the compact officers of party states based on the recommendations of the compact officers of all party states, except that, in the absence of the requisite number of compact officers available to serve, the chief administrator of the criminal history record repositories of nonparty states shall be eligible to serve on an interim basis;

(ii) Two (2) at-large members, nominated by the director of the FBI, each of whom shall serve a three (3) year term, of whom:

(A) One (1) shall be a representative of a criminal justice agency of the federal government and may not be an employee of the FBI; and

(B) One (1) shall be a representative of a noncriminal justice agency of the federal government.

(iii) Two (2) at-large members, nominated by the chairperson of the council, once the chairperson is elected pursuant to subsection (d) of this article, each of whom shall serve a three (3) year term, of whom:

(A) One (1) shall be a representative of a state or local criminal justice agency; and

(B) One (1) shall be a representative of a state or local noncriminal justice agency.

(iv) One (1) member, who shall serve a three (3) year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board;

(v) One (1) member, nominated by the director of the FBI, who shall serve a three (3) year term, and who shall be an employee of the FBI.

(d) From its membership, the council shall elect a chairperson and a vice chairperson of the council, respectively. Both the chairperson and the vice chairperson of the council:

(i) Shall be a compact officer, unless there is no compact officer on the council who is willing to serve, in which case the chairperson may be an at-large member; and

(ii) Shall serve a two (2) year term and may be reelected to only one (1) additional two (2) year term.

(e) The vice chairperson of the council shall serve as the chairperson of the council in the absence of the chairperson.

(f) The council shall meet at least once each year at the call of the chairperson. Each meeting of the council shall be open to the public. The council shall provide prior public notice in the federal register of each meeting of the council, including the matters to be addressed at the meeting.

(g) A majority of the council or any committee of the council shall constitute a quorum of the council or of the committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony or conduct any business not requiring a vote.

(h) The council shall make available for public inspection and copying at the council office within the FBI, and shall publish in the federal register, any rules, procedures or standards established by the council.

(j) The council may request from the FBI, reports, studies, statistics or other information or materials as the council determines to be necessary to enable the council to perform its duties under this compact. The FBI, to the extent authorized by law, may provide assistance or information in response to a request by the council.

(k) The chairperson may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities and duration.

Article VII

Ratification of Compact

(a) This compact shall take effect upon being entered into by two (2) or more states as between those states and the federal government. Upon subsequent entering into this compact by additional states, it shall become effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact shall have the full force and effect of law within the ratifying

jurisdictions. The form of ratification shall be in accordance with the laws of the executing state.

Article VIII

Miscellaneous Provisions

(a) Administration of this compact shall not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) Nothing in this compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Nothing in this compact shall diminish or lessen the obligations, responsibilities and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof, under the federal departments of state, justice and commerce, the judiciary, and Related Agencies Appropriation Act, 1973 (Pub. L. 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under article VI(a) of this compact, regarding the use and dissemination of criminal history records and information.

Article IX

Renunciation

(a) This compact shall bind each party state until renounced by the party state.

(b) Any renunciation of this compact by a party state shall:

(i) Be effected in the same manner by which the party state ratified this compact; and

(ii) Become effective one hundred eighty (180) days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

Article X

Severability

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared contrary to the constitution of any participating state, to the constitution of the United States or to the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

Article XI

Adjudication of Disputes

(a) The council shall:

(i) Have initial authority to make determinations with respect to any dispute regarding:

(A) Interpretation of this compact;

(B) Any rule or standard established by the council; and

(C) Any dispute or controversy between any parties to this compact.

(ii) Hold a hearing concerning any dispute described in paragraph (i) of this subsection at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. The decision shall be published pursuant to the requirements of article VI(e) of this compact.

(b) The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, maintain system policy and standards, protect the accuracy and privacy of records and to prevent abuses, until the council holds a hearing on such matters.

(c) The FBI or a party state may appeal any decision of the council to the attorney general and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court shall be removed to the appropriate district court of the United States in the manner provided by 24 U.S.C. § 1446, or other statutory authority.

7-19-603. Compact officer to administer the compact.

The Wyoming attorney general or his designee shall act as the compact officer responsible for implementation and administration of this compact on behalf of the state of Wyoming.

CHAPTER 20
FAMILY VIOLENCE

7-20-101. Definition of "peace officer".

As used in this chapter "peace officer" has the meaning specified in W.S. 7-2-101.

7-20-102. Arrests without warrant.

(a) In addition to arrests specified in W.S. 7-2-102, any peace officer who has probable cause to believe that a violation of W.S. 6-2-510(a) or 6-2-511(a) has taken place within the preceding twenty-four (24) hours or is taking place or that a violation of W.S. 6-2-502(a) or 6-2-504(a) or (b) has taken place within the preceding twenty-four (24) hours or is taking place and that the person who committed or is committing the violation is a household member as defined by W.S. 35-21-102(a)(iv), may arrest the violator without a warrant for that violation, regardless of whether the violation was committed in the presence of the peace officer.

(b) A peace officer, without a warrant, may arrest and take into custody a person if:

(i) An order of protection has been issued by a circuit or district court as authorized by W.S. 35-21-104 or 35-21-105 stating on its face the period of time for which the order is valid and specifically restraining or enjoining a household member, as defined by W.S. 35-21-102(a)(iv), from entering onto premises, from physical abuse, threats of personal

abuse or acts which unreasonably restrain the personal liberty of any household member, or from abducting, removing or concealing any child in the custody of another household member or from transferring, concealing, encumbering or otherwise disposing of petitioner's property or the joint property of the parties;

(ii) A true copy and proof of service of the order has been filed with the sheriff's office having jurisdiction of the area in which the moving party resides;

(iii) The person named in the order has received notice of the injunctive order;

(iv) The person named in the order is acting in violation of the order or the peace officer has probable cause to believe that the person violated the order within the preceding twenty-four (24) hours; and

(v) The order states on its face that a violation of its terms subjects the person to a criminal penalty pursuant to W.S. 6-4-404.

7-20-103. Appearance in court; hearing; probation.

(a) Any person arrested pursuant to W.S. 7-20-102 shall be brought before the court having jurisdiction in the cause without unnecessary delay. At the initial appearance under this section the court shall:

(i) Set a time for a hearing on the alleged violation of the order of protection within seventy-two (72) hours after the person is initially brought before the court under this subsection;

(ii) Set a reasonable bond pending the hearing;

(iii) If the arrest is pursuant to W.S. 7-20-102(b), notify the party who procured the order of protection and direct that party to appear at the hearing and give evidence on the alleged violation; and

(iv) If the defendant is found guilty of an offense referred to in W.S. 7-20-102(a) and 35-21-106(c) and if probation is otherwise available for the offense, the court, without entering a judgment of guilt and with the concurrence of the prosecutor and consent of the defendant, may defer further

proceedings and place the defendant on probation as provided in this paragraph. The terms and conditions of probation shall include those necessary to provide for the protection of the alleged victim and other specifically designated persons and additional conditions and requirements which the court deems appropriate, including any counseling or diversionary programs available to the defendant. On violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided for revocation of probation. On fulfillment of the terms and conditions of probation, the court shall discharge the defendant and dismiss the proceedings against the defendant. This subsection does not apply in any case in which the defendant has previously been found guilty of an offense referred to in W.S. 7-20-102(a) and 35-21-106(c), or in which charges under this section have previously been dismissed in accordance with this subsection.

7-20-104. Notice to victim of services and legal rights and remedies.

At the time of arrest under W.S. 7-20-102 or as soon thereafter as is practicable, the peace officer shall advise the victim of the availability of a program that provides services to victims of battering in the community and give the victim notice of the legal rights and remedies available. The notice shall include furnishing the victim a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the district attorney to file a criminal complaint. You also have the right to go to the circuit or district court and file a petition requesting any of the following orders for relief: (a) An order restraining your attacker from abusing you; (b) An order directing your attacker to leave your household; (c) An order preventing your attacker from entering your residence, school, business or place of employment; (d) An order awarding you or the other parent custody of or visitation with a minor child or children; (e) An order restraining your attacker from molesting or interfering with minor children in your custody; (f) An order directing the party not granted custody to pay support for minor children, or for support of the other party if that party has a legal obligation to do so.

You also have the right to sue for losses suffered as a result of the abuse, including medical and moving expenses, loss of earnings or support and other out-of-pocket expenses for injuries sustained and damage to your property. This can be done without an attorney in small claims court if the total amount

claimed is under $.... (Officer to insert current jurisdictional limit of small claims court).

1. Name, address and phone number of local family violence program.

2. Name, address and phone number of district attorney's office."

7-20-105. Peace officer education and training.

(a) Law enforcement agencies and the Wyoming law enforcement academy shall provide peace officers with a uniform education and training program approved by the peace officer standards and training commission designed to inform the officers of the problems of family and household abuse, procedures to deal with these problems, the provisions of this chapter and the services and facilities available to abused family and household members. The amount and degree of peace officer training shall include the following:

(i) Officers who are currently employed by a law enforcement agency and have already completed and been certified through a state basic skills course shall be provided eight (8) hours of training through the local law enforcement agency at which the officer is employed. The law enforcement agency may contact the family violence program in the county to assist in designing and implementing this training;

(ii) Officers who have not yet completed and been certified through the Wyoming state basic skills course shall be provided twelve (12) hours of training as part of the basic skills course at the Wyoming law enforcement academy. The department of health may be contacted to assist in designing and implementing this training.

7-20-106. Civil or criminal liability of peace officer.

A peace officer making an arrest pursuant to this chapter is not civilly or criminally liable for that arrest if the officer acts upon probable cause and without malice.

7-20-107. Identification codes; reports.

(a) The Wyoming division of criminal investigation within the office of the attorney general shall develop and each law enforcement agency shall use a domestic violence identification

code or codes by January 1, 1988. In all incidents of domestic violence, a report shall be written and shall be thus identified on the face of the report as a domestic violence incident.

(b) The division of criminal investigation shall compile a quarterly and annual statistical report which shall include the number of reported incidents of domestic abuse for each county and for the state as a whole, the types of crime involved in the domestic abuse, the days of the week and hours of the day the incidents occurred and the final disposition of each reported incident. The statistical reports shall not include the names of any of the persons involved in an incident of domestic abuse or any information which would serve to identify such persons as individuals. Copies of the quarterly and annual statistical reports shall be published in the "Uniform Crime Reporting, Crime in Wyoming" publication and shall be made available to the public upon request.

CHAPTER 21
VICTIM IMPACT STATEMENTS

7-21-101. Definitions.

(a) As used in this chapter:

(i) "Crime" means a felony as defined by W.S. 6-10-101;

(ii) "Family member" means a spouse, child, sibling, parent or legal guardian of a victim;

(iii) "Victim" means an individual who has suffered direct or threatened physical, emotional or financial harm as the result of the commission of a crime or a family member of a minor, incompetent person or a homicide victim;

(iv) "Victim impact statement" means an oral or written statement by the victim of a crime providing the information specified by W.S. 7-21-102(c).

7-21-102. Notice to crime victims.

(a) If a defendant is convicted of a crime involving an identifiable victim, the district attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

(i) The defendant's conviction;

(ii) The offenses for which the defendant was convicted and the possible sentences for each offense;

(iii) The victim's opportunity to make a written or oral impact statement for use in the preparation of the presentence investigation report concerning the defendant when a presentence investigation report is to be prepared;

(iv) The address and telephone number of the probation office which is to prepare the presentence investigation report;

(v) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant;

(vi) The victim's opportunity to make an impact statement at sentencing or at any subsequent hearing for correction or reduction of sentence; and

(vii) The time and place of the sentencing proceeding and the time and place of any subsequent hearing for correction or reduction of sentence.

(b) The notice given by the district attorney to the victim pursuant to this section shall be given by any means reasonably calculated to give prompt actual notice.

(c) A notice given under subsection (a) of this section shall inform the victim that his impact statement may include but shall not be limited to the following:

(i) An explanation of the nature and extent of any physical, psychological or emotional harm or trauma suffered by the victim;

(ii) An explanation of the extent of any economic loss or property damage suffered by the victim;

(iii) The need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage; and

(iv) The victim's recommendation for an appropriate disposition.

7-21-103. Submission of victim impact statement to sentencing court.

(a) At any hearing to determine, correct or reduce a sentence, an identifiable victim of the crime may submit, orally, in writing or both, a victim impact statement to the court.

(i) Repealed by Laws 2005, ch. 17, § 2.

(ii) Repealed By Laws 2005, ch. 17, § 2.

(b) Any victim impact statement submitted to the court pursuant to this section shall be among the factors considered by the court in determining the sentence to be imposed upon the defendant or in determining whether there should be a correction or reduction of sentence.

(c) Any failure to comply with the terms of this chapter shall not create a cause for appeal or reduction of sentence for the defendant, or a civil cause of action against any person by the defendant.

CHAPTER 22
PRIVATE CORRECTIONAL FACILITIES

ARTICLE 1
IN GENERAL

7-22-101. Definitions.

(a) As used in this article:

(i) "American correctional association standards" means those standards at the time of implementation of this act, or if amended, the amended American correctional association standards, which are approved by the state;

(ii) "Contracting governmental entity" means the state or a local government which has entered into a contract with a contractor pursuant to this article;

(iii) "Contractor" or "private contractor" means a person who has entered into a contract with the state or a local government pursuant to W.S. 7-22-102;

(iv) "Deadly force" means force that is likely to cause death or serious bodily injury;

(v) "Facility" means a jail, prison or other incarceration facility constructed or operated pursuant to a contract under W.S. 7-22-102;

(vi) "Five (5) state elected officials" means the governor, secretary of state, state auditor, state treasurer and superintendent of public instruction;

(vii) "Local government" means any city, town, joint powers board or county in Wyoming;

(viii) "Nondeadly force" means force that normally would cause neither death nor serious bodily injury;

(ix) "Private-company detention officer" means a private contractor's employee serving as a detention officer at a facility being operated pursuant to a contract under W.S. 7-22-102;

(x) "State" means the state of Wyoming acting through the office of the governor.

7-22-102. Authority to contract; general conditions.

(a) The state or a local government may contract with private entities for the construction, lease (as lessor or lessee), acquisition, improvement, operation, maintenance, purchase or management of facilities and services as provided in this article, but only after receiving the consent of the five (5) state elected officials as to site, number of beds and classifications of inmates or prisoners to be housed in the facility.

(b) No contract shall be entered into or renewed unless the contracting governmental entity, with the concurrence of the five (5) state elected officials, determines the contract offers substantial cost savings to the contracting governmental entity and at least the same quality of services provided by the state or by similar local governments.

(c) After receiving the majority consent of the five (5) state elected officials as to the site, number of beds and classifications of inmates or prisoners to be housed in the facility, the state or the local government may contract with

private entities for the construction, lease (as lessor or lessee), acquisition, improvement, operation, maintenance, purchase or management of facilities, either:

(i) For the incarceration of its own inmates or prisoners;

(ii) For the incarceration of prisoners or inmates of the state or any other local government;

(iii) For the incarceration of any prisoners or inmates:

(A) Under the jurisdiction of the United States government or any of its offices, departments or agencies;

(B) Otherwise under the control of the United States government or any of its offices, departments or agencies; or

(C) Lawfully confined by any jurisdiction within the United States.

(d) The state or the local government may reject or return prisoners from outside the state. Prisoners or inmates of out-of-state, nonfederal jurisdictions shall not be incarcerated in any facility operated by a local government entity under this article without the consent of the majority of the five (5) elected officials of this state. At no time shall the number of prisoners from out-of-state, nonfederal jurisdictions incarcerated in a facility operated by a local government entity under this article exceed thirty percent (30%) of the capacity of that facility. Any out-of-state, nonfederal prisoner shall be returned to the jurisdiction of origin to be released from custody by them, outside the state of Wyoming at the appropriate time.

(e) Notwithstanding any other provision of law or any rules or regulations adopted pursuant to statutory authority, a negotiated selection process, including requests for proposals from a list of applicants prequalified by the state or the local government, shall be applicable to any contract between the state or a local government and any private entity entered into under the authority of this article. Standards for prequalification of applicants under this subsection shall be promulgated as rules by the state or local government entity

under the Wyoming Administrative Procedure Act before the commencement of the selection process.

(f) Rules and regulations promulgated under this article shall ensure that no contract entered into under this section shall result in the significant displacement of employed workers within a sixty (60) mile radius of the community.

7-22-103. Incarceration of inmates in privately operated facility.

At the direction of the state, in the case of a person sentenced to the custody of the department of corrections to serve a term of imprisonment in a state penal institution, or at the direction of the local government in the case of a person sentenced to imprisonment in a city or county jail, the person sentenced to imprisonment may be incarcerated in a facility constructed or operated by a private entity pursuant to a contract under this article.

7-22-104. Contract term and renewal.

The initial contract for the operation of a facility or for incarceration of prisoners or inmates therein shall be for a period of not more than three (3) years with an option to renew biannually thereafter. Contracts for purchase or lease (as lessor or lessee) of a facility shall not exceed a term of thirty (30) years. Any contract for the construction or operation of a facility shall be subject to annual appropriation by the contracting governmental entity.

7-22-105. Standards of operation.

(a) All facilities governed by this article shall be designed, constructed and at all times maintained and operated in accordance with the American correctional association standards in force at the time of contracting. The facility shall meet the percentage of standards required for accreditation by the American correctional association, except where the contract requires compliance with a higher percentage of nonmandatory standards. The contract may allow the contractor an extension of time in which to meet a lower percentage of nonmandatory standards only when the contract is for the renovation of an existing facility, in which case the contractor shall have not longer than three (3) months to meet those standards that are applicable to the physical plant.

(b) Facilities governed by this article shall comply with all federal and state constitutional standards, state and local laws, and all court orders.

7-22-106. Private-company detention officers; use of force.

(a) No person shall be employed as a private-company detention officer unless the person has been trained in the use of force and the use of firearms in accordance with American correctional association standards, §§ 3-4070 through 3-4091, and, at the contractor's expense, has satisfactorily completed a basic training program approved by the state. If the training is provided under contract with the state, the costs of a basic training program shall not be greater than the costs of peace officer training at the Wyoming law enforcement academy.

(b) A private-company detention officer may use force only while on the grounds of a facility or while transporting inmates. Nondeadly force and deadly force shall be used by a private-company detention officer only as provided in this section.

(c) A private-company detention officer is authorized to use only such nondeadly force as the circumstances require in the following situations:

(i) To prevent the commission of a felony or misdemeanor, including escape;

(ii) To defend himself or others against physical assault;

(iii) To prevent serious damage to property;

(iv) To enforce institutional regulations and orders; and

(v) To prevent or quell a riot.

(d) A private-company detention officer who is trained pursuant to the provisions of subsection (a) of this section, shall have the right to carry and use firearms and shall exercise such authority and use deadly force only as a last resort when reasonably necessary to prevent the commission of a violent felony as defined in W.S. 6-1-104(a)(xii), to prevent the escape of a convicted felon from custody, or to defend the

officer or any other person from imminent danger of death or serious bodily injury.

(e) Within three (3) days following an incident involving the use of force against an inmate or another, the employee shall file a written report describing the incident with the administrative staff of the facility and with the contract monitor appointed pursuant to W.S. 7-22-108.

(f) A private contractor shall have the same standing, authority, rights and responsibilities as the contracting governmental entity in any agreement, formal or informal, with local law enforcement agencies concerning the latter's obligations in the event of a riot, escape or other emergency situation.

7-22-107. Employee training requirements.

All employees of a facility operated by a private contractor pursuant to this article shall receive, at a minimum, the same quality and quantity of training as that required for employees of state operated facilities. If any or all of the applicable American correctional association standards relating to training are more stringent than are governmental standards, training shall be provided in accordance with the more stringent standards. All training expenses shall be the responsibility of the private contractor.

7-22-108. Monitoring; right of access.

(a) The contracting governmental entity at the contractor's expense, shall employ an individual to be responsible for monitoring all aspects of the private contractor's performance under a contract for the operation of a facility pursuant to W.S. 7-22-102. The individual employed as contract monitor shall be qualified to perform this function by reason of education, training and experience as determined by the five (5) state elected officials. At a minimum, the contract monitor shall have completed at least the same training required by this article for detention officers and shall have served a minimum of three (3) years as a detention officer. The monitor, with the approval of the contracting governmental entity, shall appoint staff as necessary to assist in monitoring at the facility, which staff shall be at the contractor's expense and will be solely responsible to the contract monitor. The monitor or his designee shall be provided an on-site work area by the contractor, shall be on-site on a daily basis, and shall have

access to all areas of the facility and to inmates and staff at all times. The contractor shall provide any and all data, reports and other materials that the monitor determines are necessary to carry out monitoring responsibilities under this section.

(b) The monitor or his designee shall be responsible to and report to the state and any other contracting governmental entity at least monthly, and more often as necessary to ensure proper operation of the facility, concerning the contractor's performance.

(c) Members of the public shall have the same right of access to facilities operated by a private contractor pursuant to this article as they do to state operated facilities.

7-22-109. Liability and sovereign immunity.

(a) The contractor shall assume all liability arising under a contract entered into pursuant to W.S. 7-22-102.

(b) Neither the sovereign immunity of the state nor the sovereign immunity applicable to any local government shall extend to the contractor. Neither the contractor nor the insurer of the contractor may plead the defense of sovereign immunity in any action arising out of the performance of the contract.

(c) Nothing in this article shall be construed to accord to any inmate in any facility or to a member of the public third party beneficiary status.

7-22-110. Insurance.

(a) The contractor shall provide an adequate plan of insurance, specifically including insurance for civil rights claims, as determined by an independent risk management or actuarial firm with demonstrated experience in public liability for state governments. In determining the adequacy of the plan, the firm shall determine whether the insurance is adequate to:

(i) Fully indemnify the contracting governmental entity and the state from actions by third parties against the contractor, the contracting governmental entity or, the state or as a result of the contract;

(ii) Assure the contractor's ability to fulfill its contract with the contracting governmental entity in all respects and to assure that the contractor is not limited in this ability due to financial liability that results from judgments;

(iii) Protect the local government and the state against claims arising as the result of any occurrence during the term of the contract on an occurrence basis; and

(iv) Satisfy other requirements specified by the independent risk management or actuarial firm.

7-22-111. Termination of contract and resumption of control.

(a) The board or the local government may, upon demonstration that a breach of contract has occurred and that after the passage of a reasonable period of time the breach has not been cured, without penalty to the state or the local government, cancel a contract for the private operation of a facility at any time on giving ninety (90) days written notice.

(b) Notwithstanding any other provision in this article to the contrary, prior to entering a contract for the private operation of a facility, a plan shall be developed by the contractor and approved by the contracting governmental entity establishing the method by which the state or the local government will resume control of the facility or the inmates incarcerated in a leased facility upon contract termination.

(c) Any contract entered into under this article for the private operation of a facility shall provide that upon declaration by the state or the local government of any material breach of contract on the part of the private contractor, the state or the local government may, if necessary, assume immediate temporary control of the operation of the facility pending transfer of inmates to another facility.

7-22-112. Nondelegation of authority.

(a) No contract for private correctional services under this article shall authorize, allow or imply a delegation to a private contractor of authority or responsibility to:

(i) Classify inmates or place inmates in less restrictive custody or more restrictive custody;

(ii) Transfer an inmate, although the contractor may recommend in writing that the state or the local government transfer a particular inmate;

(iii) Formulate rules of inmate behavior, violations of which may subject inmates to sanctions, except to the extent that the rules are accepted or modified by the state or the local government;

(iv) Take any disciplinary action against an inmate;

(v) Grant, deny or revoke good time credits;

(vi) Recommend that the parole board either deny or grant parole, provided the contractor may submit written reports that have been prepared in the ordinary course of business unless otherwise requested by the parole board;

(vii) Develop procedures for calculating good time credits or inmate release and parole eligibility dates;

(viii) Determine inmate eligibility for furlough, compassionate leave or participation in community corrections;

(ix) Require an inmate to work, except as directed or authorized by the state or the local government. In connection with work required by the state or the local government, the private contractor shall not have authority to:

(A) Approve the type of work that inmates may perform; or

(B) Award or withhold wages or good time credits based on the manner in which individual inmates perform such work.

7-22-113. Authority of state to contract with local governments.

The state may contract with any local government or private contractor which is responsible for the maintenance or operation of a facility to house in the facility inmates or prisoners of the state penitentiary or any other facility operated or under the control of the state, and any local government or private contractor may accept and house such inmates or prisoners in the facility pursuant to any contract with the state. The contract

shall specify such matters as are deemed relevant by the state, the local government or the private contractor and shall be approved as to form and content by the Wyoming attorney general.

7-22-114. Rulemaking authority.

The state or the local government shall promulgate reasonable rules and regulations necessary to carry out this article.

7-22-115. Contract authorizing operation required; exception.

(a) No private entity shall construct, operate or manage any private jail, prison or other structure to house or incarcerate inmates or prisoners in this state except pursuant to contract under this article.

(b) Subsection (a) of this section shall not apply to a nongovernmental community correctional facility or program approved under W.S. 7-18-104(b).

7-22-116. Repealed by Laws 2003, Ch. 202, § 2.